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## *Royal Commission on the Economic Union and Development Prospects for Canada*

### VOLUME THREE







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*Report of the Royal Commission on the Economic  
Union and Development Prospects for Canada*





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## *Royal Commission on the Economic Union and Development Prospects for Canada*

### VOLUME THREE

*Minister of Supply and Services Canada*

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## PART VI

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### **Introduction**

#### **The Canadian Constitutional Heritage and Directions for Reform**

The three essential elements of Canadian constitutional government – responsible parliamentary government, federalism and citizens' rights, which culminated in the recently adopted Canadian Charter of Rights and Freedoms – are not disposable pieces of machinery to be subjected to narrow instrumental calculations based on cost efficiency. These three pillars represent the historic arrangements through which we govern ourselves, formulate economic policy, preserve social peace, shift the boundaries between the public and the private sector, and make claims on one another as individuals, as members of communities, and as residents of distinctive regions. That subtle blend of institutions and norms, fashioned over more than a century of our existence as a nation, defines our political identity, shapes our collective existence, and helps us to address problems that require our collective response. Our institutional arrangements must be both true to our evolving concepts of ourselves as a people and useful for the collective tasks we have taken on and will take on in the future.

The institutional arrangements bequeathed to us by history are not, therefore, a burden to be borne. Rather, they represent a heritage that we must nurture and refine in response to successive challenges emerging from the domestic and international environments. Canada's institutional arrangements are part of a living Constitution that evolves and that we continuously reshape. Canadians have challenged the particulars of these arrangements for their biases, insensitivities and inefficiencies, and we shall continue to do so.

Profound transformation has taken place in our institutions of government, in response to a sequence of changing pressures. Yet the transformations in

responsible government, federalism and citizens' rights have occurred within a recognizable line of development. If Sir Georges-Étienne Cartier or Sir John A. Macdonald were alive today, they would sense much that was reassuringly familiar along with much that was disorienting, the result of cumulative and incremental change.

Political systems change in complex and obscure ways. Change is partly the result of deliberate and conscious choice, but much change is subtle and informal, the result of slow modifications of behaviour. The constitutional order engages in a constant dialectic with its environment. Political institutions are a meeting point for the diverse social forces that affect the modern state. These forces include international economic interdependence and international tensions, popular expectations of government's responsibilities, social and economic change and the evolving aspirations of diverse internal communities. These forces, along with numerous other factors, change the working nature of institutions and the functions they perform.

Even deliberate change often produces unanticipated and sometimes perverse results. Except at the founding of nations, changes in political systems are typically piecemeal and rarely comprehensive. The cumulative effects of these changes can unbalance the structure of interdependent institutional arrangements and can thus lead inadvertently to a departure from basic values. Our task as Commissioners requires us to consider the institutional adjustments that Canadians have made in response to changing circumstances. Continuing on the path of *ad hoc* gradual change has consequences for the components of constitutional government that we in Canada must address.

As we look back on the transformations in our system of government since the end of the Second World War, the picture that emerges is neither one of chaos, nor one of serenity, but of something in between: a somewhat disorderly procedure evolving piecemeal, in response to pressures of the day, options available and partial visions of the future. The basic institutional framework remains, but there are also discontinuities, false starts and deviations from the principles of constitutional government that we have inherited.

The modifications in our processes of government since 1945 testify to the system's flexibility. These adjustments are remarkable in light of the common view that federal systems are rigid, and of the absence, until 1982, of a comprehensive procedure for amending the Constitution. Commissioners have concluded, nevertheless, that while parliamentary government, federalism and the Charter are appropriate to Canadian values and to the handling of future demands, our institutions since 1945 have not yet successfully adapted to major changes in the environment. Indeed, there have been such significantly negative effects that co-ordinated reform is required to ensure that Canada's constitutional order is both effective in managing the nation's collective affairs and sensitive to the values of liberal democracy.

These are large claims, and Commissioners, in making them, do not wish to be misunderstood. We believe that the essential components of our constitutional system—responsible government, federalism and the Charter—continue to provide firm foundations for the Canadian constitu-

tional order. We also believe, however, that the variety of *ad hoc* accretions that we have inherited or recently added to the system have distorted it. In particular, we fear that some recent developments threaten the function of governments as servants of the people.

Commissioners' proposals for institutional reform are directed toward three basic and closely related objectives. We wish to secure the democratic foundations of Canadian government. We hope to strengthen the capacity of Canada's institutional arrangements to accommodate the internal social, economic and political diversity found within Canadian society. We seek to increase the responsiveness and effectiveness of public policy making in a changing domestic and international environment. Each of these objectives has implications for the operation of responsible government and the federal system, and for the recognition of citizens' rights.

Commissioners' first objective—securing foundations for democracy—derives, in part, from the historic tradition in which Canadians have participated. We are citizens of one of the oldest enduring systems of constitutional government in the world. Maintenance of that heritage is an important task and an essential element of the “institutional and constitutional arrangements to promote the liberty and well-being of individual Canadians” (P.C. 1982-3438) to which our terms of reference directed us. In a complex and uncertain world, where domestic and international actions of the state in the social and economic realm affect each one of us, it is essential that our basic institutions—the three pillars of the Canadian constitutional order—enhance the quality of Canadian democracy.

To strengthen the foundations of democracy, Commissioners' concern is to reinvigorate the practice of responsible government. That form of government is the democratic vehicle by which Canadians keep legislative bodies sensitive to their values, render them accountable for their actions, and install and dismiss governments at periodic intervals. Because of the enhanced role of the state today, a healthy system of responsible government is more important than in the past, when a narrower state agenda, a smaller bureaucracy, and a stronger sense of personal ministerial accountability made the norms and practices of responsible government easier to sustain. The challenges we face are two-fold: first, to strengthen our elected legislatures as forums for legislative debate and scrutiny and for holding governments responsible for their conduct of public affairs; secondly, to ensure that the political executive, the Cabinet, is able to control the bureaucracy so that it operates as the instrument of citizens' representatives.

In any consideration of the democratic tradition in Canada, we must also address the implications of federalism, in particular the relation of federalism to responsible government. Our operational definition of Canadian federalism is a two-level system of responsible governments. To strengthen responsible government at the national and provincial levels, as Commissioners would wish, is therefore to flesh out federalism, and not to undermine it. Through interdependent responsible governments, federalism enhances opportunities for democratic participation by increasing the avenues through which citizens may express their policy preferences.



Although federalism and parliamentary government have co-existed in Canada for more than a century, relations between them have produced tension and will continue to do so. Federalism, with its division of powers, constrains legislative majorities and, in emergent policy areas where clearly defined jurisdictional limits are absent, it also raises questions about which majority, federal or provincial, should take precedence. Frequent resort to intergovernmental bargaining also contributes to the tension between federalism and responsible government, involving consequences for democracy. Intergovernmental bargaining tends to take place among executives, to involve complex agreements and tax-transfer arrangements which blur accountability and, on occasion, to confront legislatures with a *fait accompli*. The intergovernmental process, with its closed sessions and its stress on the interests of governments themselves, lessens the already-limited capacity of legislative bodies to control the political executive and is generally hostile to citizens' involvement. In the complex trade-off required here, Commissioners would favour the enhancement of the parliamentary side of our existence in both orders of government.

Intergovernmental relations are not the essence of federalism. Their undoubted significance is a by-product of the operations of contemporary federalism and reflects the co-existence of two orders of powerful government. That these governments exercise some of their responsibilities interdependently does not change the essential nature of Canadian federalism as a system of 11 responsible governments. The situation, does, however, raise major issues about managing that interdependence. We must address these issues within the context of the primacy of responsible, that is, accountable, government. Competitive elections to determine the partisan composition of legislatures through open discussion and freedom of association are an essential means whereby we keep government the servant of the people. This, our historic method of calling governments to account, will depend increasingly on the public availability of the information upon which decisions can or ought to be based. The availability of that information is often limited by our complex of institutions.

Commissioners' second objective is to strengthen the capacity of Canadian institutions to accommodate and reconcile Canada's internal social, economic and political diversity. We emphasize here arrangements for representing these varied interests and perspectives in public decision making.

Commissioners have sought to keep distinct the issues of regional representation in the national government and the machinery of intergovernmental relations, although these topics have occasionally been linked. For example, in the flurry of constitutional proposals leading up to the Constitution Act, 1982, there were calls for a reformed Senate to be made up in whole or in part of delegations appointed and controlled by provincial governments. In ways that were never fully explained, this second chamber was to perform some of the functions of intergovernmental conferences and simultaneously to compensate for regional insensitivities of the national government to matters directly under its jurisdiction. Commissioners distinguish these two functions, believing that the influence of provincial governments on national policies is best left to the intergovernmental arena.

Reform of the institutions of federalism concerns the questions of how responsibilities should be divided among governments, and how those governments should manage their inevitably overlapping relationships. It does nothing to ensure the legitimacy and representational capacity of national institutions in fulfilling their obligations to Canadians. Equally, reform of national institutions can do little to meet the need for co-ordinating the actions of two strong orders of government. We need both an appropriate relationship among governments and a regionally responsive central government. We believe, therefore, that the best way to inject the concerns of regional and provincial communities into the national Parliament is through the direct representation of their citizens, rather than through representation of provincial governments. Both electoral reform and Senate reform have been suggested as means to this end.

The electoral system appeared on the institutional reform agenda in the 1960s as the Liberals proved less and less able to obtain representation from the West and the Conservatives from Quebec. Some Canadians saw these failures as threatening the legitimacy of the federal government at a time when provincial governments were becoming more prominent in the federal system. Provincial governments, stressing a provincialist definition of Canada, presented themselves as the most legitimate representatives of Canadians, and elaborated this claim in proposals for reform of central-government institutions. Some argued for a reformed Senate appointed primarily or wholly by provincial governments. The opening up of the constitutional issue itself and the noticeable influence of provincial governments on that process gave prominence to provincial views on institutional reform.

Although the Government of Canada accorded priority to the Charter in its constitutional objectives, it also responded to the growth of provincialism. If the constitutional system were to respond to the prevailing view of the relative strength of social forces in the country, there would have to be either devolution of authority to the provincial governments or greater sensitivity at the centre to provincial concerns. Two choices were available to accomplish the latter option: express provincialism at the centre through provincial-government appointments, or incorporate provincial sentiments more directly. Electoral reform was one example of the latter approach.

The debate over the form of provincial participation in national institutions was an elemental controversy about the appropriate relations between the governments of the federal system and the national and provincial communities on which they are based. It was a debate, also, about the definition of the national community. Advocates of inserting a provincial component into Parliament, especially by means of a reformed Senate, were implicitly criticizing the historic principle of representation by population and the insensitivity, particularly to the smaller provinces, which that principle involved.

Commissioners' view of federalism accepts that the national government must have a capacity to represent and to respond to regionalism and provincialism. We believe that either reform of the Senate or, our second choice, reform of the electoral system of the House of Commons is necessary to accomplish these objectives. We prefer Senate reform, as we believe that



the most successful accommodation of regional interests in the formation of national policy requires a modification of the majoritarian principle of representation by population. We propose a Senate elected by proportional representation, with distribution of seats weighted toward the smaller provinces. This change, the significance of which we do not underestimate, would modify the basis of political power in the national government: it would supplement representation by population in the House of Commons with the more federalist principle of representation by region in a democratically elected Senate. We believe that our proposal would make every political party more representative, in caucus and in Parliament, of the provinces and regions. Better regional representation in national institutions should not only contribute to reconciliation of regional and national interests within the national jurisdiction, but should also increase the legitimacy of the national government in intergovernmental affairs.

The third general objective of Commissioners' proposals, that is, responsive and effective economic policy making in a changing domestic and international environment, involves a more direct focus on the function and operation of Canada's institutional framework. Canadians have a number of economic objectives including growth, high employment and low inflation. We cannot, however, divorce pursuit of these goals from the political process of governing and the institutional arrangements that channel it. Our economy, including its international dimensions, is a political economy. Political institutions have economic consequences. Changes in governing arrangements can influence our economic performance and prospects, just as can technological advances, the emergence of new markets, and changes in the international competitive environment.

Commissioners' attitude to conflict—its positive functions and its negative features—is central to our position on the making of policy, economic and other. We neither expect nor seek to achieve the elimination of disagreement, controversy and competition. In an open pluralistic society where state policies deliberately or inadvertently distribute advantages and disadvantages, conflict and competition among private actors seeking to influence governments are inevitable and functional. These actors provide governments with the information necessary for devising new policies and modifying old ones.

Regulated conflict among partisan adversaries is the essence of our parliamentary system. We appreciate the significance of the phrase "Her Majesty's Loyal Opposition", which would be incomprehensible in political systems where imprisonment rather than honour greets those who oppose the government. Moreover, we believe that the expression of choices and alternatives through this mechanism increases the quality and acceptability of the public policies that emerge. Our system of adversarial politics, linked to elections and freedom of speech and assembly, allows the people, however imperfectly, to rule.

The competition between government and opposition parties is only one example of institutionalized conflict within the Canadian state. Competition takes place, also, between governments in the federal system and within each of the governments of that system, for no government is monolithic. On the

contrary, government in Canada, as elsewhere, is comprised of competing and co-operating departments, bureaus and agencies.

Conflict, in other words, is inherent in our system and reflects real differences. We Commissioners, however, neither worship conflict nor view all its manifestations as healthy. A Darwinian jungle is not our ideal nor that of Canada. Our common existence means that we are connected to one another. We must therefore regulate conflict and frame rules to limit its destructive effects and enhance its constructive consequences. Commissioners are searching for a new balance. We wish to see more effective policy making. We wish to see policies that are sensitive to the concerns of the affected interests, that are practicable and feasible, and that can be integrated with other programs of the state. Conflict, appropriately restrained, can help Canadians to achieve responsive government.

To be more specific, Canadians should look carefully at the way our governments make economic policy, in order to make that process more responsive and effective. We must consider relations between citizens and the state and relations between governments. We should look first at leadership, information and consent, key features of effective policy making. We should then look at federalism: we might form better economic policies by introducing more flexible arrangements and clearer regulation of intergovernmental conduct.

Commissioners' concern for democracy does not ignore the consideration that Canada has representative, not direct democracy. There is an accepted and appropriate division of responsibility between citizens and the legitimate wielders of public authority. Citizens do not govern, and governors must make hard choices: *Gouverner, c'est choisir*. Accordingly, in our desire to keep governments accountable and responsible, we must not forget the functional necessity for executive leadership to set goals and to confirm clear directions and encourage their pursuit. Canadians adopted the British system of responsible government and rejected the American doctrine of separation of powers and the suspicion of government on which that doctrine is based. Responsible government was to sustain an "energizing executive", able to lead in the creation of a new country. Similarly, the executive at the provincial level came to act vigorously as provincial aspirations, power and administrative capacity expanded.

Commissioners believe, also, that effective policy making requires a continuous flow of information between the democratic state and its citizens. Sensitivity to the interdependence of issues and thus to the ideas and experience of those caught up in their complexities is essential. Democracy can serve economic performance by providing the state with the information necessary to ease the constant adjustment that economic change requires. The state is so deeply involved in the market-place that the functioning of the economic change it initiates depends heavily on the quality of the information on which it acts. We make recommendations concerning consultative arrangements designed to improve the exchange of information between governments and private actors.

It is true, also, that the state cannot successfully implement public purposes by issuing orders without the consent of the public. Successful implementation requires not only compliance, but also co-operation. We can no longer take these for granted as the growing underground economy indicates. Commissioners' goal is to harness the creative energies of the Canadian people in the process of economic policy making, for we deny that government has a monopoly on relevant knowledge and expertise.

Canadians and their governments live in an international environment which is the source of both economic growth and dislocation, and from which ideological, technological, scientific, military and other forces impinge on us. Citizens and their governments need to communicate effectively if they are to manoeuvre together successfully in the world system. This requires consultation about citizens' needs and expectations, and discussion of governments' plans as they unfold. Moreover, the growing international responsibilities of the state threaten democratic controls by strengthening the power of the executive. We seek to check that development. In general, therefore, we seek an enhancement of democratic citizenship.

Economic performance depends on effective management of relations between the federal and provincial governments. In our concern to establish means by which to manage more effectively the inescapable interdependence among governments, we Commissioners do not anticipate or seek perfect harmony and equanimity as the chief goals for the federal system. The two orders of government are legitimate representatives of different constellations of interests and concerns. With this in mind, Commissioners wish to encourage a more functional approach to federalism. Rather than focusing on centralization or decentralization, or on increased federal or provincial power, discussions should stress responsiveness to citizens' needs and effective management of social and economic policy. We propose recommendations, therefore, to increase flexibility of response to problems introduced by governmental interdependence.

Concerning barriers within the Canadian economic union, Commissioners do not consider formal constitutional change other than the extension of section 121 of the Constitution Act, 1867 to cover interprovincial trade in services. Other decisions to be made concerning the economic union involve sensitive trade-offs between economic and political considerations; we believe that intergovernmental forums can best handle these trade-offs at this stage. Clearly, Canadians must establish rules to control barriers to interprovincial trade, in order to check government behaviour that is inconsistent with more open world trade and the need for a more flexible and efficient economy. We propose formulation of a code governing interprovincial trade, the principles of which might ultimately become part of the Constitution. To advance this effort and to render it more visible to Canadians, we suggest, below, institutional procedures for governments.

These, then, are our fundamental goals for institutional reform: to enhance the quality of Canadian democracy, and to strengthen the linkages between citizens and their state; to improve the capacity of our institutions to reflect, accommodate and reconcile the divergent interests in Canadian society; to



enhance the capacity of our governing institutions to generate and implement economic and social policies and programs through which Canadians can achieve policy goals such as those set out throughout this Report.

## **Confederation**

The Canadian state is a complex assemblage of institutions and norms. To understand it, we must look at the principles underlying its institutional features. These principles include, most notably, the three pillars of the constitutional order: responsible parliamentary government, federalism and, more recently, the Canadian Charter of Rights and Freedoms. They provide the framework through which we govern ourselves and shape collective goals. It is through that framework, modified by historical evolution and made more important by the recent dramatic growth of state responsibilities, that the relations of state, society and economy play themselves out. The institutional framework defines what we can achieve through state action. It facilitates the achievement of some purposes and frustrates others.

Our federal arrangements distribute different jurisdictional capacities to two orders of government. We employ both orders to pursue goals, sometimes as members of a provincial community and at other times as citizens of a national community. The selection of goals depends, in part, on which order of government has jurisdiction in a given field. Provincial boundaries determine the relevant population base for policy responses to specific matters under provincial jurisdiction, according to prevailing constitutional interpretation. Decisions of the past affect the existence of political communities today; and our decisions may do the same in the future. Thus, the federal government's arbitrary division of the former Northwest Territories into the Provinces of Alberta and Saskatchewan, in 1905, determines today's beneficiaries of the Alberta Heritage Trust Fund and the Saskatchewan Heritage Fund. So, too, any contemporary division of the Northwest Territories may affect our descendants many years hence. The new Charter of Rights and Freedoms also affects our capacity, through the state, to pursue particular goals.

All political systems are tied to the past, including those that attempt a revolutionary departure from it. Commissioners' starting point for understanding the Canadian system of constitutional government is, therefore, the Confederation agreement of 1867, although it, too, was the product of previous experience.

Federal systems with written constitutions develop from a particular set of decisions reached at a precise moment in history. The act of founding necessarily requires one set of choices about institutional arrangements that foreclose the possibility of others. If the arrangements withstand the battering of future challenges, they deny basic options to future generations. Just as the decision to become a ballet dancer or a nuclear physicist eliminates the possibility of pursuing other careers and determines a lifestyle that may last for years, so the consequences of basic institutional choices remain in force over lengthy periods, for such choices cannot be made, unmade or remade in

response to every passing fancy. As the German sociologist Max Weber observed, once we toss the historical dice to determine basic social arrangements, we cannot easily throw them again. The founding act of constitutional choice establishes the structure of state power and basic relations among core institutions, and initiates the rhetoric of subsequent political debate. It defines the boundaries of community within which we make claims on one another and respond to such claims. It shapes the language we employ in defending those claims, and the arrangements we employ to fulfil them.

The first pillar of constitutional government in Canada, responsible government, is an inheritance from Great Britain. The British North American colonists had begun to achieve representative and responsible government prior to Confederation. In such a system, the Cabinet, or executive council, is responsible for its actions to a representative elected legislature. This system structures the relations between legislature and executive in both federal and provincial governments. It is intended to ensure that government is servant rather than master and, at the same time, to endow the political executive with the capacity for leadership necessary to mobilize resources in the pursuit of agreed objectives.

The bias toward executive authority following Confederation was implicit in the link between the Cabinets and the legislatures. There was a convention that the Cabinets in office would remain as long as they were supported by a majority of the members of the House of Commons or of the provincial legislative assemblies. As the national party system developed, there emerged a convention that support in the legislature would be based on partisan majorities.

The absence of distrust or fear of executive authority was, in part, a product of the monarchical tradition: power flowed from the Crown rather than from the people. Most Canadian politicians of the 1860s, including the Fathers of Confederation, were not “democrats” as that term was popularly understood in the United States, and were anxious to stress the “Britishness” of Canada and hence its distinctiveness from our American neighbours. The United States was just recovering from a Civil War, which some of the Fathers of Confederation attributed to the excesses of democracy and to the American conception of the rights of the people. They believed that these arrangements fatally weakened governing authority. Accordingly, they envisaged that representative and responsible government would more effectively combine democratic control and executive leadership.

The Fathers of Confederation had inherited responsible parliamentary government. To it they added the second pillar, federalism. Federalism was an appropriate institutional response to the existing colonial diversities in the Maritimes and the Province of Canada. In Lower Canada—the future Quebec—a francophone majority had its own civil code, language, culture, history and religious background. It insisted on and received significant powers of self-rule at the provincial level in matters pertaining to cultural survival and growth. Upper Canada—later Ontario—with its British heritage, also required a federal arrangement. The Maritime colonies of Nova Scotia and New Brunswick also had distinctive traditions and histories, and joined



the federation with their own recently established systems of responsible government.

The Act of Union of 1840 had united Upper and Lower Canada. Its implementation had proved to both French and English that collaboration of both language groups within the framework of a single colony with one government would produce recurrent stalemate and deadlock. The British North America Act of 1867 (now renamed the Constitution Act, 1867) brought together into one constitutional system Nova Scotia, New Brunswick and the united Province of Canada, and at the same time, divided that Province. It thereby disentangled the local affairs of the respective francophone and anglophone majorities in the new provinces of Quebec and Ontario. By providing for both disengagement and consolidated action, federalism was, from the beginning, essential to the harmonious co-existence of the French- and English-speaking peoples within a common country.

Confederation, of course, not only created four new provinces out of three British colonies, but also established a new national government. That government would preside over and, indeed, build the new nation, extending its jurisdiction to the Pacific, populating the prairies and integrating the expanded country by means of railways. While creation of the provinces protected existing diversities and community arrangements, creation of the federal government was a response to the challenge of building a new nation. No national community existed in 1867, and there was relatively limited intercolonial trade and exchange. Only a common experience of constitutional development within the British tradition originally united the colonies. Provincial communities, or at least their colonial antecedents, predated Confederation. Sections 91 and 92 of the Constitution Act, 1867 set out most of the powers of the two levels of government. The new constitutional arrangements were based on separate systems of responsible government, each with generally distinctive jurisdictional authority.

French Canadians in Quebec tended to assess federalism in terms of the powers assigned to provincial governments. Many English Canadians, though by no means all, supported a strong central government and its expansionist ambitions. In our post-Confederation history, national policies, especially concerning foreign affairs and conscription, deeply divided the two linguistic communities, and the general insensitivity of the political majorities and provincial governments of English Canada to the francophone minorities in their midst reinforced that division. By the 1970s, these two developments had led to the emergence of a government in Quebec committed to sovereignty-association. Commissioners will return in a subsequent section to French-English relations and their effect on Canadian federalism, and to our proposals concerning a *rapprochement* with the government of Quebec, which has not accepted the Constitution Act, 1982.

Another aspect of the original understanding of 1867 requires emphasis in the light of recent constitutional controversies. Originally, the federal Cabinet was to represent the regions: ministers would speak for their provinces when national policy was being determined. Nevertheless, representation by population was to be the basis of the House of Commons; the Senate, with

federally appointed membership based on regional equality, was to be weak, and has become progressively weaker. From the beginning, therefore, we have had a national government in which citizens are represented on the basis of population. Yet the inevitable consequence of weighting voters equally is to weight provinces unequally. The overriding premise has been that the House of Commons, and the Cabinet power derived from it, represent and make laws for all Canadians as members of a national community.

The third pillar of the Canadian constitutional order, citizens' rights, was also part of our British heritage. The founders of Canada did not reject that heritage of civil liberty. The preamble to the British North America Act of 1867, which established the new nation, stated that Canada was to have a "constitution similar in principle to that of the United Kingdom." Such a constitution was to include responsible government and the civil liberties and freedoms that had come to be viewed as the rights of British subjects. In Britain, no formal written constitution enshrined the ancient and highly-valued rights of persons or limited the powers of Parliament; nevertheless, those rights were not only considered compatible with the tradition of parliamentary supremacy, but were deemed best protected by it.

In keeping with the concept of parliamentary supremacy and the fact that Confederation was the achievement of a small Canadian élite, no ringing declaration of the rights of citizens accompanied the birth of our nation. The Fathers of Confederation attributed no sovereignty to the new Canadian people, who were to exercise their influence through elected representatives. The British Parliament passed the British North America Act; there was no popular ratification of Confederation. Canada remained linked to Europe by virtue of Britain's continuing role in Canadian affairs. Yet, subject to continuing imperial ties, we Canadians had significantly adjusted the arrangements by which we governed ourselves. We had responded to the imperatives of space, of linguistic and cultural duality, and of distinctive colonial histories by establishing provinces. We had also set ourselves the demanding task of building a nation, and we were commencing a journey in the course of which we would gradually shed our links with Britain. The Constitution Act, 1982, by which we set up a comprehensive procedure for amending our Constitution here in Canada, has further reduced the significance of the British connection which earlier had been central to the identity of many English Canadians.

Protection and expression of provincial and regional diversities were never the sole concern of Canadian federalism. From the beginning, federalism was intended also to facilitate emergence of a new national community. That community emerged as successive generations of Canadians and their governments proceeded to build a nation. The choice of federalism presupposed and permitted the evolution of a complex, interdependent relationship between provincial and national communities.

Responsible government, with clear lines of accountability between Cabinets, legislatures, and electorates, logically assumed a type of federalism with little interdependence of policies between governments, a reasonable assumption in 1867. The national government had large and impressive responsibilities, for which it received appropriate powers; provincial

governments were to play a more limited role and therefore had less extensive powers. In general, at least by our contemporary standards, direct government intervention had little effect on society and the economy. Although partisan politics was often heated, and patronage was significant for party supporters, for most Canadians, government was a distant affair.

The social context in which the Constitution was drafted did not involve the pervasive presence of government. The Constitution Act, 1867 inevitably reflected prevailing attitudes about the function of government, assumptions long since gone. Canadians have built the massive bureaucratic apparatus of the modern state on the foundation of a formal division of powers that has changed little since Confederation. One out of five Canadians now works for some level of government. There are few areas of our lives untouched by the state in its performance of its many responsibilities. As one consequence, rather than governments that function independently of each other, we have intimate, and often discordant, interdependence.

The growth of the state and of interdependence gives rise to new requirements for managing relations between governments. It also complicates the working of responsible government, which is central to our Canadian practice of democracy, by blurring the chain of accountability that stretches from Cabinets to legislatures to citizens. The widened involvement of the state in new areas of social and economic regulation also raises new issues with respect to the status of citizens in the constitutional order.

Clearly we need to reassess the principles of responsible government, federalism and individual rights in the light of the complex co-existence of big governments in Canada today. The accomplishments of the Fathers of Confederation constitute a heritage that we must both honour and adapt.

## **The Evolving State in a Changing World**

Since the Second World War, two new primary forces have challenged our traditional constitutional arrangements: the growth of the state and the increased impact of the international environment. Given the multiple functions of the modern state, Commissioners see no evidence that a significant overall decrease in government activity is possible. We see, in particular, a high probability that Canada's international involvement will increase, and that external forces will have an increasing effect on the quality of Canadians' lives. These assumptions will shape our analysis of Canada's constitutional arrangements. We wish to determine, in the light of these assumptions and of the continuing evolution of Canada's social composition, how to provide government that responds democratically to Canadians' wishes and efficiently manages our collective affairs.

The dialectic among state, society and economy, domestically and internationally, defies easy comprehension. Yet we Canadians must understand the many functions performed by governments in our federal state if we are to have informed discussion about the appropriate division of labour between the state and the economy, and about the other functions of the state in Canada. It is essential to keep in mind that government itself is far from being a single-minded actor.



Since the Great Depression of the 1930s, many people have believed that domestic economic management is one of government's major responsibilities, second only to preservation of civil order. Management of the welfare state derives from, and is closely integrated with, the task of economic management. The welfare state is government's response to the failures of the economic system to distribute equitably income, risk and life chances. It is the product of evolving concepts of social justice and citizens' rights, worked out through political processes. Although it is also related to economic stabilization, we can logically consider it the equity side of government's responsibilities in economic management. The two functions are complementary: the state is held responsible both for performance of the economy and for the social consequences of fluctuating patterns of economic activity. These two interrelated tasks require a complex division of labour: although the state must seek to steer the economy, most basic, day-to-day, economic decisions must be taken in the market-place. The state intervenes to adjust the distributive consequences of the market in accordance with evolving criteria of social justice. The welfare state preserves social stability by collectively compensating for inequalities generated by the market.

In addition to discharging its responsibilities in economic management and social welfare, the modern state seeks to maintain social cohesion, symbolizes the community's unity and diversity, and operates on the international stage. It has a responsibility to foster social integration. This "social role", as we have termed it, includes government responses to issues of sexual equality, ethnicity, language, regionalism, Native rights, alternative life-styles and ecology. While the relevant government policy responses clearly affect the economy, the issues derive their impetus from the social pluralism and multiple divisions characteristic of "post-industrial" society. We are witnessing the extension of concepts of equality to new spheres and a consequent willingness to use governments to resolve problems that those concepts define.

A healthy political and social order requires symbolic official affirmation of our identity as Canadians. Official recognition and confirmation of the diverse characteristics of a national society through representative practices and in government policies is essential to that society's definition and perception of itself as a people. Canada's official languages policy, for example, symbolizes our linguistic dualism. Our policy of multiculturalism is a recognition of the contribution of all ethnic groups to Canadian society. The appointment of women to the offices of lieutenant-governor and governor general speaks to sexual equality. Special constitutional conferences on aboriginal rights affirm that Canada's aboriginal peoples are a distinctive component of our modern society.

To dismiss these symbolic functions of the state would be a grievous mistake. The social and symbolic roles of the state have a special capacity to excite the passions of each of us as citizens, for they address our moral beliefs, our feelings of self-worth, and our identities. With its prominence in recognizing status, as well as distributing income, the state must seek to enable citizens to identify with the moral, symbolic order of a highly politicized society. This is no easy task. The emotionally divisive issues of the

last quarter-century in Canada have not been concerned only with class divisions or labour/management conflict, but have frequently emerged from the symbolic and social realms.

The Canadian state also has major international functions and responsibilities. These responsibilities are so much greater than they were before the Second World War that they represent a qualitative change. Since 1945, there has been a proliferation of new states with varying degrees of control over territory and populations. A small club of actors has become a crowd, thus complicating the international system by increasing the number of participating states. Simultaneously, international organizations have become important forums for the attainment of domestic goals. Canada, as a trading nation, depends heavily on a liberalized international order to encourage the flow of goods, capital and services. Various institutional arrangements, which involve the General Agreement on Tariffs and Trade (GATT), the International Monetary Fund (IMF), and other bilateral and multilateral accords, manage this international economic system. Conversely, the international arena also provides ground for the arms race and the playing out of international political rivalries. Canada is not merely an observer of all these developments: we have taken and shall continue to take a prominent part in the resolution of international problems.

The breadth and complexity of the state's relations to its domestic and international environments defies easy comprehension. The domestic and international context is so exceptionally complex that historic patterns of thought—communism, capitalism, socialism, liberalism, conservatism and other intellectual ordering devices of yesterday's politics—do not provide coherent answers to the range of issues that agitate us. Several of those traditional perspectives may help to guide policy in selected areas, but if our concern is for the whole, as it must be, we must be creative.

No consensus exists in today's intellectual and political milieu for Commissioners to ratify and adopt. The frequently lamented decline of political parties and the resulting tendency of interest groups to deal directly with governments are in part a product of that lack of consensus. Without some coherent framework of ideas, it is difficult for political parties to offer direction, integrate the multiple divisions in Canada and deal with the vast demands put upon the state.

### ***The International Environment, Responsible Government and Canadian Federalism***

Increased international interdependence in the modern world involves new challenges for Canadians. It also puts new or stronger pressures on Canada's institutional and constitutional arrangements. For instance, a crucial problem throughout the world involves the appropriate relations between the global political structure of geographically fixed states and the international forces—economic, cultural, ideological, scientific, technological and military—within which they exist. States cannot move, and neither can peoples. Accordingly, this Commission has been deeply concerned about Canadian responses to the many external forces that shape our private and

public lives, and that may even alter the delicate balance between federal and provincial governments. The manner in which we Canadians respond can affect the quality of Canadian democracy and the effect of our institutions on economic performance.

There is an inherent contradiction in administering foreign affairs within a parliamentary democracy. International negotiations, participation in complex alliances, and the need for quick responses to international crises may encourage, even require, prompt executive action with little or no public or parliamentary consultation. Some matters, such as deliberate adjustment of the exchange rate, require secrecy for their effective implementation. Executive branches usually have more expertise at their disposal than have legislatures, and legislatures enjoy access to more expertise than citizens. The imbalance is much greater in international matters than on purely domestic issues. Our treaty-making practices, which do not require parliamentary debate, accentuate the imbalance of information and expertise.

Commissioners do not intend to suggest that the executive acts with ease and precision and without institutional controls in the international domain. Managing international economic policy is difficult for the federal government, for example, because it involves blending the “low politics” of economic life with the traditional “high politics” of war and peace. Significant internal reorganizations to achieve that blending have been constantly on the agenda of Western states, including Canada, in recent decades.<sup>1</sup> Bureaucratic politics pervades the making of international economic policy because the process involves numerous departments and agencies with foreign economic interests or responsibilities.<sup>2</sup> Thus the state is far from being a unitary actor, even in foreign affairs. The internal controls on government resulting from this situation are undoubtedly powerful, but they are qualitatively distinct from the discipline of responsible government in our domestic constitutional tradition.

Global interdependence is often viewed primarily from the perspective of economics, a field where it is defined in terms of liberalization of international trade and the flows of international capital. Economic interdependence, however, is only one of the external forces that play on people and states. Many contemporary social movements reflect the interaction between domestic and international forces. Movements seeking to enhance the status of women and aboriginals and to protect the environment, and groups favouring new or “alternative” life-styles are simultaneously national and international. Social movements gain strength from their international counterparts and have an increasing influence on domestic affairs.

The traditional concerns of Canadian foreign policy—war and peace, military contributions to the Western alliance, and procurement to sustain the infrastructure of defence—are major responsibilities of the national government. These responsibilities are relatively immune from fluctuations in the federal-provincial balance in domestic areas.

The federal government is the primary regulator of our growing social and commercial transactions with the rest of the world; it creates policy on tariffs, exchange rates, immigration, citizenship and culture. It is responsible for our



national borders, and their defence, and for the regulation of transactions across them. It may execute this responsibility through domestic legislation, such as the Foreign Investment Review Act (FIRA), or by means of international treaties on tariffs. The media, particularly electronic media, can easily penetrate national borders. Most Canadians live within 300 kilometres of our border with the United States, with which English-speaking Canadians share a common language. Our national government is the only institution in Canada with the ability to regulate the flow of U.S. electronic media into our country. This is one reason for its major role in the fostering of Canadian culture.

The national government's greater involvement in the international arena makes it more sensitive than the provinces to a variety of international concerns and to the interdependence of international and domestic interests. This difference in exposure and awareness complicates the intergovernmental process within Canada as various parties emphasize different concerns in domestic discussions. This situation has been evident in our experience with acid rain, for example, and in provincial adherence to Canadian commitments in international trade.

The provinces obviously lack international contacts equivalent to those exercised by the national government. Nevertheless, in response to international events affecting their residents or businesses within their jurisdiction, provincial governments have become actively involved in international matters. Provincial activity in the international sphere focuses largely on trade. Quebec has, in addition, extensive cultural contacts with France and *la francophonie*.

Manoeuvring in the international political economy on behalf of domestic economic interests, therefore, has become a functionally shared responsibility, and provincial governments have become prominent in international trade missions. Because many non-tariff barriers (NTBs) of key interest to our trading partners are under provincial jurisdiction, federal-provincial co-operation is essential if Canadians are to participate effectively in this aspect of international relations. Given the new importance of NTBs, provincial agreement and compliance are essential if the terms of treaties negotiated by Canada are to be fulfilled. At the moment, no arrangement exists to achieve such agreement. That gap in our institutional machinery is a major impediment to negotiation and implementation of bilateral and multilateral arrangements to reduce international trade restrictions.

The need for federal-provincial co-operation in international trade is parallel to the need for federal-provincial co-operation in domestic matters for which both levels of government have a measure of responsibility. We can apply some of the principles governing co-operation in domestic matters to the international realm. The provinces would wish international economic policy to be as sensitive to regional and provincial interests as is domestic policy. And, of course, it is desirable that the provinces be sensitive to the national interest and respect the federal government's international responsibilities.

## *Growth of the State and Canadian Federalism*

The growth of the state in Canada at both federal and provincial levels has generated an additional set of problems: managing the interdependence of governments in the federal system. Interdependence was a concern in 1867. Disallowance, reservation, the declaratory power and federal appointment of the provincial lieutenant-governors – early drafts called them “Superintendents” – all indicated that the national government could intervene directly in provincial affairs.

These federal instruments were not manifestations of intergovernmental partnership. Disallowance and reservation were essentially negative. They could prevent provincial governments from proceeding with particular measures. The declaratory power allowed the federal government to remove certain “works” from provincial jurisdiction. The federal government applied these instruments unilaterally and frequently in the early years. The Constitution Act, 1867 also provided for federal payments to the provinces to compensate for their relinquishment of tariff powers and to bridge the gap between their revenue-raising capacities and their expenditures. Relative to the present situation, however, the interdependence of governments in the federal system was minimal in 1867 and remained so into the twentieth century.

The modest elaboration of the conditional-grant technique between the two World Wars brought the two orders of government into closer collaboration in pursuit of common purposes. Even in the Depression of the 1930s, however, prevailing opinion held that the division of powers was the defining element of Canadian federalism. Flexibility was to come, not from transcending the division of powers by co-operative arrangements, but by constitutional amendment. That amendment, unfortunately, was more easily advocated than accomplished. Hence a constitutional impasse emerged in the 1930s. Many Canadians came to see an inflexible federal system as an obstacle to a leading role for the national government, especially in economic management, which they considered essential in those desperate times.

Wartime conditions after 1939 gave the federal government the dominant role that had been impossible for it to assume in the Depression. In the post-war period, the constitutional impasse was circumvented by means of a growing network of fiscal agreements and conditional grants, especially in the various programs that constituted the welfare state. In the interdependent federalism of the late 1940s and early to mid-1950s, the federal government was still the dominant player. Provincial governments, however, began to enhance their bureaucratic capacity and to amplify the number and increase the subtlety of the governing instruments at their disposal. Seeing themselves as entrepreneurs developing their own economies, they began to challenge the national government’s leadership. Nation-building and province-building had to find ways to co-exist.

Provincial governments continue to occupy a prominent place in the nation’s public life. Commissioners consider this situation an unalterable feature of the foreseeable future. The co-existence of two orders of government actively involved in the same society and economy has created a

high degree of interdependence among governments. Managing the federal system has thus emerged as a new and difficult responsibility for governments that wield much more power than they did in 1945.

A complex network of intergovernmental agreements and machinery testifies to the shared responsibilities of the two orders of government, and to their inability to pursue their objectives in isolation from each other. The division of powers proves an imprecise guide in determining where responsibility resides when new areas of activity emerge. Thus there are always intergovernmental skirmishes at the margin. These conflicts deflect attention from the ongoing process of working out *rapprochements* in other areas.

The intergovernmental process is both political and bureaucratic. There is no hierarchy. Participants can make demands, strike postures, and threaten and use unilateral action. There is no price system to regulate competition, nor is there any invisible hand to transform competition into a universally recognizable version of the public interest. Nevertheless, there is self-restraint. There is recognition of the legitimacy of other governments. There is a common citizenship linking governors and electorates that distinguishes intergovernmental relations from those among independent states in the international system. Furthermore, there has been a halting development of intergovernmental machinery to manage federal-provincial interdependence. In recent years, both levels introduced departments, bureaus, and agencies of intergovernmental affairs—a number of which they have since disbanded—to manage interdependence.

Be this as it may, Commissioners see considerable room for improvement in intergovernmental relations. We accordingly recommend new institutions to manage interdependence. We suggest the need for a more highly developed sense of constitutional co-existence and of comity, to moderate the excesses of rivalry and competition. Over time, governments, like other organizations, do acquire interests of their own that are divorced from the purposes they were originally intended to serve. Thus the concerns of government often come to override the interests of citizens.

Citizens sometimes see themselves as pawns in the hands of contending governments, neither of which represents their views of how and by what policies they should be governed. Squabbling and rancour can frustrate our desire as citizens for a sense of security that our affairs are well handled in intergovernmental discussion and negotiation. Therefore, Commissioners seek more effective handling of relations between the governments of the national and provincial communities that co-exist as the base of the federal system. We Canadians all belong to both types of community. These communities are alternative manifestations of one people, which is provincial for some purposes and national for others. Governing ourselves within the federal system is thus a more complex task than in a unitary state. The activist role of government at both levels enhances this complexity.

### *Growth of the State and Responsible Government*

Responsible government is the primary vehicle by which Canadians hold governments accountable. Despite the difficulty of encompassing and



controlling the activist state, the institutions of responsible government remain the key to keeping government our servant, rather than allowing it to become our master. The increasing activities of government complicate the functioning of responsible government in several ways.

As we have already noted, intergovernmental networks linking federal and provincial governments weaken the ability of legislatures to control executives and hence of the electorate to control governments. The proliferation of regulatory agencies and Crown corporations outside executive control lessens accountability. The many and increasing activities of the state in the international arena are less subject to influence by legislatures and electorates than are its more domestic functions.

We have seen as well the effect of changes in economic theory. New ideas have emerged about the management of inflation, growth and employment. These ideas influence not only the function of the state and the division of labour between state and economy, but also the relative power of institutions within government. Such influences may affect democratic institutions. Monetarist ideas, for example, enhance the role of the Bank of Canada, which is highly independent of direct government control, and thereby lessen the ability of the electorate and of Parliament to hold the government responsible for an important instrument of economic policy.

More generally, the state's agenda is extensive; the imbalance of expertise and resources between cabinets and legislatures is pronounced. Limitations of time are extreme, and incentives for secrecy are strong. Public exposure, scrutiny, debate and discussion of policy are inevitably spotty and haphazard. The vast apparatus of the administrative state continues to apply earlier policies around which programs have been built, agencies constructed and relations with clienteles established. There is considerable scope for discretion, and policies evolve in the nooks and crannies of the bureaucratic structure, far from the gaze of parliamentarians and voters, but often closely monitored by interest groups. Even Cabinet ministers who are responsible for managing vast bureaucracies, cannot claim to monitor everything their departments do. To assert greater political control over the bureaucracy we have created a host of "central agencies". These, too, are bureaucracies which must also be controlled.

Political parties have not been able to eliminate these difficulties. Canadian parties have a limited capacity to draw interests together effectively and to provide the coherence derived from an integrated party philosophy. With the growth of government, parties have faced even greater challenges to encompass the full range of affected interests. Interest groups therefore interact directly with the bureaucracy. Demands on the state, accordingly, come from many directions, and the absence of an effective system to discipline them means that interest groups have no need to make compromises with other interests, public or private.

Commissioners have no panacea for these ills, but we have suggestions for alleviating them. The direction of our proposals is straightforward. The bias in favour of executive dominance in our system has gone too far and needs redress. We must secure the foundations of responsible government through which Canadians practise democracy in both the federal and provincial spheres.

However desirable it may be to disentangle federal and provincial functions and responsibilities, interdependence and interaction between the two orders of government will continue. This is an unavoidable consequence of vastly increased government intervention since 1867. It often reflects a beneficial competition among governments as politicians vie with one another to satisfy the expectations and demands of citizens and to secure the political recognition this brings. Commissioners would prefer to see interdependence managed well. We would like a system that helps to clarify disputes over jurisdictional boundaries, renders intergovernmental processes more visible and therefore more accountable, and moderates the excesses of competition. We intend our proposed reforms to increase the ability of national institutions to represent and respond to regional concerns, and to increase the capacity of those institutions to integrate national and provincial concerns in the intergovernmental arena.

We Commissioners advance our proposals for institutional reform in the belief that the more government we have, the more democratic we must become. We believe, also, that in a complex society in which the state, the economy and society are closely linked, effective government is incompatible with the isolation, secrecy and aloofness of our governors. Both idealism and realism suggest that the Canadian state requires more democracy, not less. Those who argue to the contrary must come to grips with the consequences of unchecked state power and an uninformed citizenry.

We Commissioners base this essentially democratizing position on a fundamental distinction between markets and governments. Although markets need a secure environment of rules and property rights, and the support of a complex infrastructure, they do not require central direction of the innumerable decisions of individual economic actors: co-ordination of economic activity takes place with or without individuals' understanding the market's overall functioning. Individuals respond to cues from the market as they pursue their particular economic goals; there is co-ordination without hierarchy.

With governments, it is otherwise. In government, sensitivity, trade-offs and co-ordination do not occur automatically. Governments intervene directly in society and the economy. Those participants in government who would alter social and economic arrangements in pursuit of public objectives should be knowledgeable and sensitive. Democratization, therefore, is a prerequisite to effectiveness in the long term. We must strengthen the processes of democratization through parliamentary institutions, both federal and provincial.

## Political Community in Canada

The image that a people has of itself has a major influence on the way it lives. No Royal Commission can pronounce *ex cathedra* what that image is to be. Commissioners can explore the critical issue of our collective identity, hoping to clarify the debate and contribute to discussion. In the final analysis, however, Canadians will work out their own answer, within an institutional and constitutional framework, the evolution of which is, in part, a response to the changing pressures of community.

The complexities of community in Canada have grown, not diminished, from the time of Confederation. With the addition of new territory, the original four provinces based on distinctive communities have become ten, and the number may further increase as the North develops.

Canadians emerged as a distinctive people in the post-Confederation process of nation building. For many English Canadians, that evolving sense of collective self fitted comfortably with continuing, but slowly declining, allegiance to Britain. French Canadians were politically less oriented to Europe and identified more with North America; almost all were descendants of the *habitants* who settled Quebec in the seventeenth and eighteenth centuries. The different orientation of English and French Canadians toward Europe sometimes produced French-English tensions over foreign policy, most notably those inherent in the conscription crises of the two World Wars. Extensive immigration from central and eastern Europe to the West, in the years preceding the First World War, laid the foundation for the multicultural heritage which our nation recognized in later years.

The evolutionary maturation of Canada from colony to nation as portrayed by liberal nationalist historians of English Canada, and the concomitant transformation of Empire into Commonwealth are well-known staples of Canadian history. The Balfour Declaration of 1926 and the Statute of Westminster, enacted in 1931, need no elaboration here. Continuing internal development of a Canadian political identity after the Second World War was codified in the Canadian Citizenship Act of 1946, the abolition of civil appeals to the Judicial Committee of the Privy Council in 1949, domestication of a formula for amending part of the Constitution in the same year, and appointment of the first Canadian Governor General in 1951.

In 1951, the Report of the Royal Commission on National Development in the Arts, Letters and Sciences in Canada (the Massey Commission) argued that the state should foster Canadian culture, in part to counter "Americanization". This concern was to recur in numerous areas of policy as the capacity of the British connection to differentiate Canadians from Americans diminished. Although we Canadians were acquiring an autonomous international presence, we were simultaneously becoming, both practically and psychologically, a North American people. The nature of our co-existence with the United States was a recurrent concern for Canadian policy makers. How to combine political autonomy and a distinctive identity with the increasing integration of the North American economy continues to be a fundamental dilemma for Canadians. The difficulty transcends purely domestic concerns and requires delicate handling of our international role. The United States is the world's strongest military and industrial power, and leads the network of alliances arrayed against the Soviet Union and its allies. In these circumstances, the dilemmas and difficulties of Canadian statehood and nation-building are permanent features of our national condition.

In the first decade after the Second World War, Canadian nationalism and elaboration of a national community developed rapidly. Links with Britain, no longer an impressive imperial power, became weaker. While many other nations struggled to recover from war or to emerge from colonial dependence, Canada was becoming a middle power. The federal government, building on



foundations of its authority laid down during the Depression and the war, assumed a leading role in the processes of demobilization and reconstruction. The shared experience of depression and war had changed public expectations of government: the federal government, working closely with the provinces, became the central actor in the evolution of the welfare state.

The Government of Quebec was defensive, concerned more with defending provincial powers generally, and Quebec's specifically, than with the search for enhanced status and jurisdiction pursued by its successors. The Report of the Quebec Royal Commission on Constitutional Problems (the Tremblay Report), tabled in 1956, was a vigorous sociological and philosophical defence of federalism and of its special virtues for Quebec. It described Quebec society as spiritual, anti-materialist, rural and anti-statist. Quebec, it argued, preferred to handle important functions, including education and welfare, primarily through private religious institutions, although industrialization, urbanization and secularization were already undermining the Commission's analysis.

In the mid-1950s, the Canadian state at the national level remained symbolically and practically an expression of English Canadians, and primarily of those of British background. A complex set of domestic pressures, however, accompanied increasing autonomy from Britain. The non-British component of English Canada asserted itself. Prime Minister John Diefenbaker, who held office from 1957 to 1963, made his Cabinets more ethnically heterogeneous than had his predecessors; he also named Canada's first woman Cabinet minister. His government gave status Indians the vote in 1960, even though many status Indians opposed the franchise, and appointed an Indian, James Gladstone, to the Senate. Diefenbaker had a vision of "One Canada", derived from the ethnic mosaic of life in the West, his own German and Scots ancestry, and a commitment to parliamentary tradition. His major effort to translate his vision into practice was the Bill of Rights of 1960.

A dramatic change in the role of Quebec's provincial government followed the death of Premier Maurice Duplessis in 1959. The election of Jean Lesage's Liberals in 1960 furthered the transformation that came to be called the "Quiet Revolution". During the 1960s, the provincial government dramatically increased the scope of its activities, replacing the church as the directing force in the evolution of the French-speaking majority in Quebec. Links between francophones in Quebec and elsewhere in Canada eroded as the former came increasingly to define themselves as Québécois. The political allegiance and identity of the Québécois focused on their own province. French-speaking Quebec became increasingly secular and materialist as well as nationalist. This provincial nationalism of Quebec's francophone majority revealed the inadequacies of the federal government's representation of French Canada and the insensitivity of the national community to the needs of French Canadians inside and outside Quebec.

One element of the federal government's response to Quebec's discontent was the creation, in 1963, of the Royal Commission on Bilingualism and Biculturalism. In response to its *Report*, which began to appear in 1967, the federal government, in 1969, enacted the Official Languages Act. Prime

Minister Trudeau's government pursued a vision of a Canada of two linguistic communities, in which French-speaking Quebecers would see both the federal and Quebec governments as their own, and all of Canada as their country. The implementation of this vision required state support to ensure the survival of official-language minorities, francophone outside Quebec and anglophone within. With the redefinition of Canada as officially bilingual, significant increases in the use of the French language developed in the federal bureaucracy. Many Canadians of non-French background saw these transformations as threatening. The federal government responded with the policy of multiculturalism, which recognized Canadians of all ethnic origins as contributors to and participants in a Canada that was to be multicultural as well as bilingual.<sup>3</sup>

In this period, Canadians could not assume the continued presence of Quebec in a united Canada. The people of Quebec engaged in a passionate debate over whether to sunder political links with other Canadians and the national government; the Parti québécois proposed a relationship of "sovereignty-association", an economic association of Quebec and Canada. The basic issue was whether Quebec could be accommodated within a framework of "renewed" federalism.

The Quebec referendum of 1980 resolved the issue of separation. It was won by those opposed to independence, including a small majority of French-speaking voters. The language provisions of the Canadian Charter of Rights and Freedoms followed, along with patriation and an amendment process, as part of the Constitution Act, 1982. The language provisions of the Act obliged the provinces to provide education in their own language for official-language minorities in specified circumstances. These constitutional provisions, an objective of the federal government from the late 1960s, required provincial governments to provide services they were assumed to be unwilling to provide as a matter of choice. In the interest of the evolving definition of the national community the Constitution Act, 1982 thereby foreclosed certain provincial diversities in language policies, based on the division of powers and on different views of the nature of provincial communities.

The obligation to provide education in the languages of official-language minorities results from a prolonged evolution of relations between the two orders of government and the national and provincial communities. It is essential to comprehend that evolution in order to become fully aware of our national identity.

While the federal government was refashioning the image of Canada at the national level to provide for linguistic dualism and multiculturalism, provincial governments were becoming more powerful actors in Canadian federalism. In the constitutional discussions undertaken after the victory of the Parti québécois in November 1976, a number of provincial premiers stressed their view that provincial communities shared parity with the national community. Some even spoke of the priority of provincial communities.

Initially, the four founding provinces of the Canadian federal system consisted of historic, territorially grouped, diverse communities. The

allocation of powers to provincial governments was an appropriate response to these sociological facts. Assigning the more significant responsibilities to the new national government was not a response to a pre-existing national community; rather, this act represented a practical response to a set of nation-building tasks best undertaken in common by that new government. The national community was to emerge as the process of nation building proceeded.

The post-confederation growth of the state at both levels has profoundly affected the evolution of the national and provincial communities. At a time when the public sphere had few functions and the private sphere was comparatively large, the federal/provincial division of powers was irrelevant for most social and economic activity. In federal systems, expansion of the state's role does not merely displace the private by the public sphere. Rather, there occurs a more complex parcelling out of formerly private interests to a public sphere divided between two orders of government. Thus expansion of the state in Canada has meant that the division of powers now affects society and the economy much more deeply than it did in earlier years. As the private sphere contracted in proportion to the more extensive use of national and provincial jurisdictional capacities, the practical significance of provincial and national communities correspondingly increased.

Canadians belong to national and provincial communities whose significance in their lives increases with every increase in the activity of government. In these conditions, citizens can no more divide their national and provincial identities and concept of community than they can expect a classical division of powers to create watertight compartments for the two orders of governments.

The national community that federalism fosters and sustains limits the potential distinctiveness of the provincial societies that are also fostered and sustained by federalism. Membership in, and identification with, the national community are, in part, products of our common life and history as Canadians. In addition, modern conditions tend to erode differences among the provinces. But identification with the national community also results from the efforts of federal leaders, who have often tried to protect and nourish an expanding sense of "Canadianism" against what they have viewed as provincial threats to the integrity of a common citizenship.

In the last decade, in particular, the federal government has attempted to deter the process of "provincialization" of the Canadian community, a process that results from the more prominent provincial government role of recent years. With the emergence of a more active provincial state, inducements developed for the federal government to set common national standards. The federal government encourages provincial compliance in areas of provincial jurisdiction where national standards and relatively uniform performance seem appropriate for the citizens of a common country.

Federalism does not imply that provincial jurisdiction, provincial governments and provincial communities are immune from the imperatives of Canadian citizenship. The national government, representing all Canadians, has a clear responsibility, which is not confined to the areas over which it has explicit constitutional authority, to play a leading role within the federal



system on behalf of the Canadian community. Commissioners do not intend these remarks to provide the national government with a rationale to undermine the obligation of the provincial governments to respond to their own communities. We do not sanction unconstitutional means to gain national ends. Nor do we intend these remarks as criticism of provincial governments, which cannot, of course, undertake national leadership. We simply note that to deny the contribution of federal leadership and initiative is to deny the history of the last 50 years.

During the last half-century, federal-provincial fiscal agreements have produced relatively co-ordinated tax and transfer systems. The welfare state has reduced interprovincial differences in the availability of social benefits. The Canadian Charter of Rights and Freedoms, particularly through the provisions for minority-language/education rights, has helped to set Canada-wide standards of performance. Provincial support or acceptance was critical to the attainment of each of these developments, but without the catalytic efforts of the national government, our tax system, our welfare program, and our rights would be much less integrated than they are.

Our national government has sought to preserve and foster national objectives and common treatment for Canadian citizens, not only within its own jurisdiction, but also in matters within provincial jurisdiction. Commissioners believe that it will continue to do so. Provincial governments will continue to provide different packages of services outside the areas in which those standards operate, and will apply them in different ways. As Canadians question the appropriateness of national standards already in place, relaxation will occasionally occur. Bilateral agreements between the federal government and particular provinces, most notably Quebec, will, as in the past, facilitate differences of treatment. Our basic point, however, remains. The provinces of Canada are not independent states. They operate within a constitutional order the integrity of which depends on recognition that governments are responsible to citizens whose preferences and expectations derive from membership in both national and provincial communities. The provincial diversities of policy that federalism encourages are subject to the constraints of membership in a national community, and the national community is not indifferent to the policy preferences of provincial communities.

In addition to reconciling the multiple social cleavages to which the modern world gives rise—a task equally applicable to the government of a unitary state—the national government of our federal system must also represent and respond to the provincial dimensions of our collective existence. Just as provincial governments and communities cannot ignore national citizenship and the national community, so the national government cannot be oblivious to the provincial dimension of our existence. The psyche of citizens of a federal country is not compartmentalized in terms of the division of powers. The average citizen is simultaneously and comfortably both a Canadian and, say, a British Columbian or a Nova Scotian. Many Canadians therefore find very unsettling overt federal-provincial conflict, particularly that based on primarily governmental concerns. They are disturbed that the co-existence of national and provincial communities, to which they are generally accustomed,

is often not reflected by the interaction of the governments which represent them in the intergovernmental arena.

The subtle interdependence between the federal system and the national and provincial communities which that system reflects and moulds has an additional important dimension that must be understood if we Canadians are to govern ourselves effectively. The individuals who make up the national community differ by sex, ethnic origin, age, economic status and province of residence. Commissioners have already noted the historic French-English dualism of the country and the move to recognize Canada's multicultural character. Our nation's developing multi-racial composition is now on the national agenda. These various cleavages also have provincial manifestations, and Canadians must bridge and reconcile these gaps within provincial communities, as well as within the national community. We have made remarkable progress: 40 years ago, an observer could have mistaken the national government—and by inference the society it represents—as the government of a British, white and male community. The federal government's representation of the real composition of the Canadian people has broadened, but much remains to be done.

Canada, like other internally diverse societies, must try to accommodate those diversities and bind them together in common enterprises. Contemporary states seek to foster an inclusive citizenship and a comprehensive sense of nationhood. While the state must provide leadership, consent is the basis of its legitimacy. As the state makes use of more representative structures and policies, it must become more finely tuned to the complexities of a heterogeneous society.

Commissioners have surveyed the evolution of Canada's national and provincial communities, the emergence of diversity, and the roles of both levels of government in the federation. This survey confirms the importance of making appropriate institutional arrangements for the national government. In a diverse national community, the political process and institutional arrangements, especially their representative elements, should encourage the national government to take broad views.

To complete Commissioners' picture of the Canadian community, we must approach the subject from the vantage point of a new institutional development. Canadians now have a Charter of Rights and Freedoms. For more than a century of government in the parliamentary tradition, we put our trust in political authority and the federalist dimensions of the Constitution. We saw little need to define various categories of rights as beyond the reach of Cabinets and legislatures, and little necessity for such rights to be protected by the courts. We regarded that conscious choice of parliamentary supremacy by our predecessors as a symbol of our political distinctiveness from the United States. The decision to adopt a Charter constitutes a transformation of that tradition.

Antecedents of the Charter are significant. Critics often underestimate the historical import of the Bill of Rights of 1960. Its provisions did not apply to the provinces. The bill itself was a statute of Parliament and not constitutionally entrenched. It contained a clause that allowed Parliament to by-pass its



provisions by simple declaration. Moreover, the Supreme Court of Canada did not use it as vigorously as some Canadians had hoped to defend citizens' rights. Nevertheless, the Bill of Rights represented a significant advance. The Canadian Charter of Rights and Freedoms is a logical next step in the process that the Bill of Rights began.

In the 1960s and 1970s, the national government sought to provide a compelling official definition of Canada responsive to our ethnic pluralism and linguistic dualism. John Diefenbaker was concerned with our ethnic pluralism, and he hoped that the 1960 Bill of Rights would help to include those outside the circle of founding peoples. His successors were anxious to refashion the national government and national community to express our French-English duality. Although the Official Languages Act of 1969 accomplished much, only provincial action, particularly in official-language education, could provide opportunities for French Canadians outside Quebec. The language provisions of the Constitution Act, 1982 were the product of lengthy and bitter constitutional struggles following Quebec's 1980 referendum. They give judicially enforceable positive rights to official-language minorities in education.

The Charter also recognizes the rights of individual Canadians who, as citizens, are a fundamental element in the constitutional order. It recognizes, too, the community dimension of our diversity: in particular aboriginal rights, language rights and multiculturalism.

Over time, a people possessed of a charter will come to view their rights differently from a people without a charter. For a parliamentary people, tradition and practice are the basis of rights; it is not easy to catalogue these rights, and citizens may not be particularly aware of them. For such a people, the protection of rights occurs in the interstices of judicial and political processes; citizens' rights are less likely to be central to its self-definition.

A charter creates a different set of circumstances. It identifies rights that people hold in common. Unless the rights are a dead letter, they become one of the standard ingredients of political rhetoric. In Canada, over time—and adaptation to the Charter will take time—the focus on rights will contribute to a clearer understanding of the meaning of political community and of the citizen's place within it. The Charter, and federal and provincial codes of human rights, with which we have had longer experience, reflect the involvement of the state in relations among citizens and groups as well as between citizens and their governments. The courts, unless they ignore their obligations under the Charter, will have to spell out a clearer philosophy of citizen-state relations and community. In so doing, they will draw on legal commentaries, legal precedents—Canadian and foreign—the academic community more generally, and public opinion, to assist in their deliberations. The long-term consequence of the process set in motion by the Charter should be a much more specific comprehension and a much more subtle sense of citizenship and community in Canada.

In the years to come, interpretation and implementation of the Charter's principles, through judicial decision or parliamentary action, will alter our understanding of the institutional framework through which we Canadians

govern ourselves. Already, the Charter is a fundamental addition to the instruments that govern citizen-state relations. It elevates the status of citizens symbolically and practically by carving out a sphere of rights. It imposes obligations on the state with respect to language rights. It authorizes affirmative action by the state to ameliorate the conditions of disadvantaged individuals or groups. Thus the Charter links citizens with the constitutional order much more explicitly than ever in our history.

Canadian government links cabinets and legislatures, federal and provincial governments, politicians and regulatory agencies and Crown corporations, interest groups and the state, and citizens and the state. Citizens are the ultimate source of authority in a representative democracy such as Canada's, and we must all give sustained attention to these complex interdependencies if we are to govern ourselves democratically and efficiently into the twenty-first century.

Canadians cannot implement the reforms Commissioners propose automatically or easily. There is no "clean slate" on which reformers can write as they wish. They must pursue change through the existing network of institutional relationships and power, and the interdependencies between state and society produced by past policies. Reform will emerge from the interaction of compelling analysis and the political process. We Canadians must involve ourselves and harness the skills and dedication of politicians and bureaucrats to achieve the ends we hope to accomplish.

## Notes

1. See Robert Boardman, "The Foreign Service and the Organization of the Foreign Community: Views from Canada and Abroad", in *Selected Problems in Formulating Foreign Economic Policy*, vol. 30, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).
2. See Gerald Wright, "Bureaucratic Politics and Canada's Foreign Economic Policy", in *Selected Problems in Formulating Foreign Economic Policy*, vol. 30, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).
3. See Raymond Breton, "Multiculturalism and Canadian Nation-Building", in *The Politics of Gender, Ethnicity and Language in Canada*, vol. 34, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).





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## The Institutions of National Government

### National Institutional Reform: Introduction

This Report has previously described the uncertainty of institutional transition in the post-Second World War period: it was a feature that reflected the absence of a clear and consistent sense of direction. There was no broadly based consensus as to the nature of the new patterns of institutional arrangements that were to emerge. Today, demands both for greater co-ordination of public policies and for more decentralization exist simultaneously. Similarly, Canadians seek a number of other paradoxical developments: decisive leadership together with increased public participation and consultation; regional representation alongside national integration; reduced party discipline in the legislature at the same time that proposals are being made for increased executive responsibility. And other examples are not far to seek. In some important aspects, of course, these demands do not exclude one another; rather, the test of effective institutional arrangements is the balance of their political values.

We Commissioners, having regard to our mandate to respect the spirit of the Constitution of Canada, focus our consideration of the national institutions of government on the performance of the parliamentary system in relation to the constitutional norms of representation and responsibility. Thus we give particular consideration to the structures and processes of Parliament: the House of Commons and the Senate; legislative/executive relations; the structures and processes of the Cabinet and the public service, including Crown corporations and regulatory agencies; the place of political parties within the system of parliamentary government. We are concerned, too, with state/citizen relations, including the roles of organized interest groups.

This Commission's public hearings and debates revealed considerable public concern about the present state of Canada's national institutions.

Three major areas for reform are identifiable: responsible government and public accountability; representative government and interest groups; national government and regional interests. These areas we now address.

## **Responsible Government and Public Accountability**

Responsible government is the fundamental basis of democracy within a parliamentary system. In Canada, this system has two essential requirements: first, that Cabinet be effectively in control of the federal government in all its organizational forms, and secondly, that Cabinet be accountable to Parliament for all executive actions, including the management of the administrative state. Logically, the latter requirement depends on the former. A number of factors associated with the growth of government and the operation of modern political parties make it increasingly difficult to meet these two requirements of responsible government, on which our democracy depends.

The requirement that Cabinet be accountable to, and thus maintain the confidence of, Parliament has been interpreted by Canadians to mean that the former body must have the confidence of a legislative majority in the House of Commons. To secure this support, our parties have functioned in a highly disciplined manner: adherence to party policies and positions has permitted little independence for members of the House of Commons. There are those who support the practice of party discipline on the grounds that it serves to promote party unity and thus to establish clear alternatives between our governing and opposition parties; nevertheless, the practice has come under increasing criticism in recent years. This criticism is not new; since the emergence of party government, there have been concerns about the effects of party discipline, as well as occasional efforts to curb and even eliminate, the practice. Such concerns were especially widespread in the various agrarian movements and parties on the Prairies before the Second World War. The supporters of these movements perceived party discipline as a device to subordinate their regional economic interests to central-Canadian majorities in the privacy of caucus.

Responsible government which includes a cabinet accountable to the legislature can be defined narrowly or broadly. From a narrow, technical perspective, it simply means that a Cabinet which loses the confidence of the House of Commons either must resign and be replaced by an alternative Cabinet which secures the confidence of a House of Commons majority or must go to the people. A broader perspective goes beyond this view of responsibility and raises questions about the quality of the accountability relationship. From this vantage point, responsible government is seen as healthy to the extent that Members of Parliament bring to their assessment of the executive's performance an adequate knowledge of the diversity of interests extant in our national politics and an effective capacity to represent that diversity. This in turn, requires some relaxation of party discipline in selected areas so that the representative role of MPs can have public expression. It also requires that Parliament serve as a central forum for the interaction of interest groups and governments. If the former, however, view

Parliament as an irrelevant arena and deploy their resources in private settings with ministers or public servants, much of the substance of responsible accountable government is eroded.

Commissioners prefer a broad construction of the meaning of responsible government. This broader construction requires that the legislature have a greater capacity to represent openly the multiplicity of interests which exist in an advanced industrial society such as Canada. It also requires the legislature to serve as an arena in which organized interests bring their expertise to policy discussions and, in turn, are challenged to represent their particular interests in the context of the competing interests of others and the larger interests of the nation.

From Commissioners' perspective, there have been, in recent years, both negative and positive developments in the representative capacity of our government. The increased significance of relations between governments in which participants are confined almost exclusively to ministers and public servants, weakens the relative status of legislatures in Canadian federalism. The proliferation of interest groups, more and more of which have bypassed both political parties and legislatures, further contributes to that relative weakening. But there are positive signs, as well. At times, particularly fairly lately, parliamentary committees and task forces have provided opportunities for private members to function relatively independently of party discipline and to investigate subjects of national importance, set out policy options, and recommend policy responses to issues of public concern. These instances provide a model for those calling for parliamentary reform. Reformers also hope that party discipline, more generally, could be restricted in its application to major issues of partisan dispute, including, of course, the major policies of the government. This restriction, they believe, would provide greater scope for independent action by individual MPs and their parliamentary committees and task forces, and would enhance the representative capacity of parliamentarians.

Commissioners recognize that Cabinet leadership is an essential component of responsible parliamentary government and, consequently, we accept the need for party discipline. We believe, nonetheless, that there are important roles to be performed by Parliament in holding the government accountable and in representing the diversity of interests in national politics that exists in Canada. Moreover, in our view, Parliament is not only a forum in which Cabinet is held accountable, but also a forum for national debate. Conflicting demands, which the policy process is intended to accommodate and reconcile, should be publicly debated in Parliament. Parliament must be a national body for deliberation, for open and public consultation, and for scrutiny of executive action.

21) The second requirement of responsible government is effective Cabinet control of the bureaucracy. The development of an "administrative state" poses a direct challenge to our concept of a responsible executive. In some instances, departmental bureaucracies have had too much influence in determining public policy and too much discretion in its implementation. Moreover, the institutional response to this situation has been to create another level of bureaucracy, in the form of "central agencies", which, when



unchecked, can have excessive influence in the management of Cabinet decision making. Consequently, political direction and responsibility for the management of government may be further reduced. If the Cabinet does not control the administrative state, it can be held accountable neither by Parliament between elections nor by the public at elections.

Concern about the perceived power of the bureaucracy is by no means unique to Canada. The Canadian reaction, however, is compounded by three distinct circumstances. First, our national government has been characterized by an administrative system that is highly centralized in its decision making, despite the fact that a large number of its employees operate outside the national capital region. For this reason, the reaction against it is reinforced by the regional alienation which is, to some degree, unavoidable in a far-flung federal state. Secondly, many Canadians perceive our national administrative system to be the creation of the dominant governing party of recent decades. For this reason, the reaction against it is buttressed by the criticisms of those who have considered it to be less than neutral in its policy orientation. This reaction occurs despite the fact that merit-based processes govern most of the senior appointments in the public service. The same criticism is also directed at Crown corporations and regulatory agencies, the governing boards of which are appointed by Cabinet, and which comprise a significant part of our administrative state. Thirdly, the proliferation of Crown corporations and regulatory agencies has produced a growing component of the public sector, whose factual or legal independence seems to symbolize public authority which is beyond the effective control of Parliament and the executive. The irony here, of course, is that while opposition parties have been critical of the dominance of partisanship in effecting appointments to such boards, even members of the governing party—until recently the Liberal Party—have been critical of the independence of those agencies which are governed by its appointees. Whether this concern will be shared by the present Progressive Conservative government, with respect to those whom it appoints to such boards remains to be seen.

There are those who argue that as a consequence of the complexity of public administration in the modern state, we Canadians must reduce our expectations with respect to this dimension of responsible government. Commissioners believe, however, that reforms can be introduced to ensure that the administrative state is subject to tighter Cabinet direction and control. We remind Canadians that the basic concern, to preserve and strengthen the practices of responsible government, is not an abstract preoccupation with principles devoid of meaning for citizens. Rather, responsible government is the means through which Canadians practise democracy and maintain respect for fundamental values in our society. Responsible government therefore deserves our attention and must be constantly nurtured if it is to thrive.

## **Parliament and Public Accountability**

As we have noted, the accountability function of Parliament has led to the emergence of disciplined parties and, in turn, has been compromised by them,



at least to some extent. Our institutional design of responsible government has assumed that parties would constitute the mechanism whereby this accountability would be secured. At the same time, however, the actual operation of parliamentary government as party government has led to the increasing cohesiveness of legislative parties and the virtual elimination of independent MPs. Central to these developments has been the enhancement of party discipline, a feature of party government within the parliamentary system which was, and still is, often misunderstood as consisting in nothing more than the exercise of power by legislative party leaders over their legislative colleagues. Although it is usually recognized that this exercise of power involves both positive incentives and negative sanctions, the focus on “power” more often than not misses what has probably been the essential feature of party discipline. That discipline has been, first and foremost, a function of organized parties in pursuit and maintenance of power; it is a discipline which has been accepted by leaders and followers alike as a prerequisite to success in party competition in a parliamentary system. The positive incentives and negative sanctions which are available to party leaders, especially but not exclusively to the leaders of the party in power, have merely served to supplement the general acceptance of the need for party discipline. They rarely have been effective when this general acceptance was lacking. When a common partisanship was not sufficient to maintain unity within a legislative party, discord and thus independence have soon appeared.

In recent years, a number of features of Canadian politics and parties, separate from the need for the governing party to maintain the confidence of the House of Commons, have contributed to the strengthening of party discipline. It is important to understand these developments, as we wish to suggest means of improving accountability and the representation of diverse interests while accepting the basic role of party discipline in our parliamentary system.

The pre-eminent position assumed more and more by party leaders, partly reflecting the attention given to leadership by the mass media, has enhanced party discipline. The selection of party leaders through extensive campaigns and nationally televised conventions contributes to the prominence of the leader. Furthermore, the mass media treat national elections as contests between party leaders, whether or not the parties have campaigned on leadership. Wider separation of the federal and provincial wings of the two leading parties has limited the number of elected members with independent regional power bases. Thus, in fact, Prime Ministers, whose prestige is enhanced by media exposure, have had greater opportunity to exercise discretion in their leadership roles, even though the formal powers of the office are essentially as they were in the original constitutional design. An additional factor is the tremendous growth of the state in terms of organizational scope and structure which has resulted in a situation where only Prime Ministers are well briefed on all aspects of public policy. Their access to information affords them an advantage not possessed by their Cabinet or caucus colleagues.

Prime Ministers—indeed, any popular party leaders—thus develop a national constituency and can use this base to strengthen their position in the

party. Party leadership, therefore, looms large in Canadian politics. The increased autonomy of national leaders not only makes our parties more oligarchic and personal, but also increases the need for party discipline. Because of the discretionary authority derived from their pre-eminence, party leaders, especially Prime Ministers, need not accommodate all the factions within their caucuses, as they play to a national constituency which is the ultimate basis of their leadership. Since the need for party unity is in no way reduced as a consequence – indeed it is increased, given the need to project a strong leadership image as an element in electoral success – party discipline is essential.

The second factor contributing to stronger party discipline has been the rapid growth of the national state and its consequences for the operation of parliamentary government. The broader scope of government intervention has increased the work-load of Parliament, necessitated longer sessions, and led to the imposition of time constraints on parliamentary debate. As a result, party discipline has received greater emphasis.

A comprehensive system of legislative committees has evolved in the House of Commons over the last two decades. Through committee work, Members of Parliament are now more deeply involved than formerly in debate and in scrutiny of legislation and expenditures. While the new system has enabled the government to accomplish more, it has been accompanied by an extension of party discipline from the floor of the House of Commons to the legislative committee room. An arrangement that many parliamentarians hoped would constitute a break from the strictures of such discipline has failed to materialize. The reason is that legislative standing committees are simply an extension of the House, and the principles of party government and partisanship apply there as well.

The pervasive electronic mass media, particularly television, have encouraged party discipline and perhaps have increased the need for its exercise. They have become the principal vehicle by which government and parties communicate with the public and, in particular, with the electorate. They have promoted visible partisanship and competition among the parties, for they demand drama, conflict and controversy. With media in search of news and politicians in search of exposure, party competition has occurred on a regular, even daily, basis: the bearpit of Question Period reveals it all.

The media have often criticized party discipline, primarily because it has restricted their access to controversies within parties, particularly within the governing party of the day. However, precisely because the electronic media pursue all breaches in party discipline instantaneously and nationally, parties have had every incentive to pay strict attention to discipline.

The factors outlined above have enhanced and reinforced the need for party discipline in the conduct of parliamentary government. Legislative parties have used party caucuses to meet this need, and as a result, over the past two decades, the caucuses have become important influences on party policy. Paradoxically, relaxing the strictures of party discipline in private settings strengthens that discipline in public. The caucus has served as a forum for considering regional and other interests, not all of which can always be fully accommodated within the parameters of party policy. Discussion within

caucus is more frank about the relative winners and losers on a particular policy issue than the party's public treatment of the same questions. The caucus has thus been more than simply a safety valve for the expression of discontent with party policy. It also has provided the mechanism that enables its members to ensure that party policies are developed in full recognition of their political implications, both in the strategic sense and in accord with the fullest expression of political representation within the constraints of party government. This Commission's research indicates that caucus has become more active and influential in recent decades; party MPs argue vigorously in the privacy of caucus for regional and other interests in matters of policy, though they may have to suppress their personal views in public in the interest of party discipline.<sup>1</sup>

Given all these features of modern party government, the capacity of Parliament to hold the Cabinet to account requires that parliamentary structures and processes be organized in ways that enable MPs to perform their representative responsibilities, while recognizing the essential demands of party government. The ability of Parliament to hold the Cabinet accountable and to serve as a national forum for public debate and representation of concerns depends on individual MPs. Members of Parliament must have adequate opportunities to deliberate on issues of national significance, to consult special interest groups and discuss policy options with them openly, and to scrutinize executive and bureaucratic actions.

The need for party discipline has restricted the opportunities for MPs to participate independently and publicly in policy deliberations. In addition, organized special interest groups have not only challenged Members in their roles as representatives of the body politic but have often bypassed them completely.

Despite a comprehensive committee system and increased support in terms of personnel, office facilities and research services, restriction on the involvement of MPs in policy-making deliberations has occurred. Members have limited scope for policy initiatives outside the strictures of party discipline largely because the legislative committee system has evolved as a mirror image of the Commons itself. Only rarely have committees been able to function in a non-partisan manner. The exceptions, however, show how MPs, in committee, could help to provide Parliament and the government with policy analysis and guidance in addition to that given by administrative officials or extra-parliamentary sources.<sup>2</sup>

To enable Members of Parliament to perform a greater public role, investigative committees could be established to study emerging matters of public interest before party positions have been determined. In committees, MPs could investigate, deliberate and make recommendations free of party considerations. Legislative committees should be distinguished from the investigative committees we Commissioners propose to encourage. This distinction is required because legislative committees must be subject to party discipline as they are examining and debating the merits of government legislation and spending intentions. Experience to date with parliamentary investigative committees and task forces does not suggest that partisan



considerations will be totally absent. Nevertheless, it does indicate that if parties are willing to use parliamentary committees for the purpose of investigating matters which have not yet become subjects of partisan division, they can achieve serious and productive results.

Another development has become an important limiting factor in enabling MPs to maintain accountability: an increasing number of interest groups now claim to be the legitimate representatives of large parts of the political community. Their representations have tended to focus on the Cabinet and the bureaucracy, however, and not on Parliament, thus indirectly weakening Parliament's control of the executive. Nevertheless, in recent years, the regular parliamentary proceedings and special public hearings of parliamentary committees have induced many of these groups to participate more fully in public debate. For many interest groups, parliamentary committees impose unwelcome demands on scarce resources of time, money or personnel by requiring them to participate in activities which are not always considered influential in determining government policy. Moreover, even though committee hearings are conducted in public, they rarely result in the media exposure such groups often seek for the purpose of communicating their views to a broader audience. Only rarely, in instances where committee enquiries are held on future policy directions and options, for example, are the demands that parliamentary participation makes on interest groups considered to be worth the effort that would be required to meet them.

If elected representatives are to be in a position to hold government accountable on the basis of the public interest and the expectations of citizens, then Parliament should be the principal public forum within which interest groups are challenged to define their special interests and to explain their particular policy preferences in light of broader interests in national policy development. To the extent that partisanship dominates committee proceedings and hearings, however, MPs, and therefore Parliament as an institution, will be constrained in their efforts to resolve the conflicting demands of special interest groups or to pursue the attempt to reconcile their concerns with the general public interest. To further this process of reconciliation, rather than to reduce or eliminate the activities or interest groups, is Parliament's role.

To reassert the primacy of Parliament as Canada's principal forum for public debate, while acknowledging that partisan considerations will not be entirely eliminated from parliamentary discussion of issues which affect competing special interests, requires structures and procedures whereby major interest groups will be involved in public examination and discussion of their demands. Such proceedings should not be confined to standing committees structured along highly differentiated policy lines. Instead, this process of discussion and examination should occur not only within the investigative committees we propose, but also within a small number of committees which focus on several comprehensive policy matters that do not ordinarily come under scrutiny by committees: the budget, regulatory policy, Crown corporations, and federal-provincial or intergovernmental relations, for example. We would expect the media to be more likely to cover the proceedings of these committees, further increasing the potential for such



parliamentary activity to broaden general understanding of the issues and to increase public awareness of particular concerns.

These committees would certainly not be uninfluenced by party considerations, since they would concern themselves with subjects relating to important political issues on which the parties will have general positions if not detailed policies. Thus in questioning representatives of major interest groups, they would not be free of partisan perspectives. However, critical examination of witnesses is not foreign to our parliamentary process and may appropriately be used with interest groups which seek, through political activities, to influence public policies.

Such public processes offer several benefits. Interest groups will become more aware of the constraints within which public policies are developed. Parliamentarians will become better-informed decision makers as a result of more regular access to the special expertise which interest groups possess. More thorough exposure of the complexities of policy formation will help to advance the education and understanding of the public at large. With an enhanced knowledge base, legislatures will enjoy an increased capacity to advise, challenge and control Cabinets.

Even if interest groups achieve a more visible and open relationship which will help them to bring their views forward, consideration should be given to the use of advanced technology to ensure that Members of Parliament always have the opportunity to be familiar with their constituents' concerns and with broad patterns of public opinion. To date, party and special interest-group politics have created a much wider distance between government and citizens than was originally intended. Our system of representative, party government does not always provide the party in power with sufficient information about the views and preferences of citizens on the broad range of issues of the day. New means of communication between elected representatives and members of the public, made possible by modern technology, could make Parliament a more effective entity in its relations with the bureaucracy and the executive, and thereby help to improve the responsiveness and accountability of government.

Commissioners believe that if Parliament is to have the authority to hold the Cabinet and individual ministers accountable for their administration of public affairs, there must be a reassertion of the primacy of elected representatives over various administrative bodies. In principle, these bodies are meant to assist Parliament in maintaining accountability, and administrative institutions that have been established to help Parliament to hold Cabinet responsible for its exercise of authority should be servants and not masters of Parliament. A number of agencies reporting to Parliament, including the Public Service Commission, the Office of the Commissioner of Official Languages, the Privacy and Information Commissioners, and the Office of the Auditor General, investigate, appraise and audit implementation of legislation, and program management. We Commissioners consider that our elected representatives in Parliament have not always given sufficient direction to, and retain inadequate control of, these agencies. Thus, an important order of bureaucracy, much of which has developed in recent decades, operates independently of the executive, which it is meant to

scrutinize, and of the legislative branch, which it is meant to serve in performing this function of executive scrutiny.

To ensure that accountability is, and is seen to be, an integral function of parliamentary government, our elected representatives must more clearly define the criteria, the procedures, and the basic strategies that these agencies use in fulfilling their responsibilities. To put MPs in a position where they can establish the necessary guidelines will require sustained forums in Parliament. Accordingly, Commissioners suggest that a new Parliamentary Committee on the Public Service should consolidate review of the work of the Public Service Commission, the Office of the Commissioner of Official Languages, and the Privacy and Information Commissioners. The new committee would study reports of these agencies about the performance of the public service in meeting various criteria, which politicians themselves would define and rank in importance. This same committee would review the spending estimates and approve the budgets for these parliamentary agencies. The Public Accounts Committee should provide guidance to the Office of the Auditor General and review its estimates, in order to promote the effective operation of this office.

A further consideration if Parliament is to be able to maintain Cabinet accountability for executive actions is associated with the state's expanded international responsibilities. The growing complexity and scope of international treaties and agreements, and the influence of international forces on domestic issues have conferred more influence on the political executive than it has ever had before. The executive exercises this influence, through foreign policy and foreign affairs initiatives, on the overall range of political decision making in Canada. A process of internationalization of domestic policy making is under way. It is vital that Parliament's role in reviewing foreign policy initiatives and international agreements be strengthened.

The act of ratification represents formal acknowledgement by a state of its consent to be bound by treaty or international agreement. Present arrangements do not require parliamentary involvement, although as a matter of practice, the government of the day often seeks parliamentary approval prior to ratifying an agreement. In light of the accelerating challenge to democratic controls presented by the increasing international responsibilities of the state, Commissioners believe that it is desirable to provide secure foundations for parliamentary ratification of international treaties and for other measures to strengthen parliamentary scrutiny of executive action in the international domain. The international arena is increasingly important to Cabinets and senior public servants. This expansion of the scope of executive action must be matched by Parliaments whose vision has become equally broad. This development, in turn, will help to educate Canadians in the international realities which will increasingly influence our future.

## **Responsible Government and the Administrative State**

Canada's system of responsible parliamentary government requires that ministers, collectively and individually, exercise authority in the administration of public affairs. This necessity, in turn, requires that ministers control

the vast administrative apparatus that is the Government of Canada. Past concern that Cabinet has had less than the desired degree of control over the bureaucracy has already resulted in changes. Cabinet structures and processes have been altered and formalized, and various support services have been added in recent years, in response to the challenge of the modern administrative state. A brief review of reforms to the executive arm of government will promote consideration of further measures intended to assist the Prime Minister and Cabinet to control the expanded and complex administrative arm.

A chief executive officer (CEO) at the apex of any complex organization is essential if there is to be overall executive control and direction of the organization's activities. Government, like other organizations, can be effective only if it embodies principles of integration and coherence; to promote these, the Prime Minister has assumed characteristics of the CEO function. The expansion of state activity has made public policies and programs increasingly interdependent. Planning and co-ordination thus assume more importance in the context of executive responsibilities. By constitutional convention, the Prime Minister has the ultimate authority and responsibility for planning and co-ordination at the executive level. Recent Prime Ministers have responded to this challenge in three ways: by reinforcing their authority through a more hierarchical Cabinet structure; by reducing their span of control in working primarily through an inner Cabinet; and by expanding their staff support to assist them in discharging their responsibilities as chief executive officer.

There has also been a steady evolution of Cabinet structures. This process was put in motion to deal both with the complexities of policy making in the modern state and with the problem of achieving political control over the state's large administrative bureaucracies. The use of *ad hoc* Cabinet committees can be traced back to the years before the Second World War, and the committee structure was formalized during the mid-1960s. Prime Ministers have always had smaller groups of very close advisers among their senior staff, and this arrangement, too, became increasingly formalized during the 1960s and 1970s as the Priorities and Planning Committee became the real centre of executive power, second only to the Prime Minister. Although, in theory, the full Cabinet may still have the final word over executive action, the full Cabinet has come to accept the decisions of the "inner Cabinet", the Priorities and Planning Committee.

As party leader and the government's Chief Executive Officer, the Prime Minister requires some independence even of the Priorities and Planning Committee. Prime Ministers from the time of Lester Pearson to the present have therefore relied heavily on their advisory staffs in the Prime Minister's Office (PMO) and the Privy Council Office (PCO), devolving considerable influence to a small number of senior officials in these two offices. The PMO and the PCO constitute, in effect, the Prime Minister's "departments" for conducting political strategy, on the one hand, and for determining policy priorities and developing administrative co-ordination, on the other.

Besides providing assistance with the Prime Minister's increasingly complex and difficult responsibilities as chief executive officer, an hierarchi-



cal Cabinet structure built on an elaborate support base was to serve other purposes. This structure and the introduction of a formal committee system congruent with policy fields were intended to ensure that all ministers would be better informed about policy options and better able to co-ordinate initiatives in related policy fields and agencies. These organizational changes were expected to help Cabinet members to retain control of the interdependent policies for which they are collectively responsible.

In some respects the committee system decentralized Cabinet decision making. Within the framework of the priorities and plans established by the "inner Cabinet", Cabinet committees now, in effect, may make decisions on behalf of the full Cabinet. The various committees, including the Priorities and Planning Committee, also introduced checks on some elements of the exercise of power within the executive system; in particular, they strengthened the processes of collective decision making and checked the independence of individual ministers. The committee system has provided an opportunity for the ministers involved to assess their colleagues' proposals more thoroughly than they could do in meetings of the full Cabinet. In large measure, indeed, it was introduced for this very purpose. The rationale was that given the increased interdependence of national policies and programs, individual ministers should not have the sole power to make decisions when a more co-ordinated government response would be more effective.

Formalized Cabinet committees were intended to check the influence on their ministers of departmental officials, as much as to reduce the discretion of individual ministers and thus strengthen the means for the political executive to scrutinize bureaucratic conduct. In Cabinet committees, Cabinet colleagues assess one another's proposals as, indirectly, do colleagues' departmental officials. These assessments can provide ministers with a measure of independence of their own officials and of the "client" groups associated with particular departments. Similarly, the central agencies, such as PMO, PCO, FPRO, Treasury Board, Finance, and, from 1979 to 1984, MSERD, MSSD, were expected to provide the Prime Minister and the Cabinet with administrative support and expertise to counter the institutional autonomy of the departmental bureaucracies and to assist in the process of policy integration. These "super-bureaucrats" can, in theory, check and co-ordinate line departments and agencies in order to permit ministers collectively to assert political control over the administrative state.

The Cabinet's increased formalization, its committee system and the support provided by central agencies have improved the ability of ministers to manage public affairs. These developments, however, have not fully brought under control an increasingly complex and, as some Canadians have described it, unmanageable bureaucracy, nor have they proved to be without their own costs. In Commissioners' view, there is a limit to the degree of support that agencies can give to the processes of Cabinet decision making and co-ordination. Bureaucratic structures and mechanisms are no substitute for effective political direction and control. They do not create the elusive "political will"; they can only reinforce it if it is already in place. We acknowledge that the central agencies constitute a necessary, if not a sufficient, check on the inevitable dispersal and diffusion of power to



bureaucrats in the modern administrative state. They make an important contribution to integrated control over the vast range of government departments, agencies and Crown corporations. Central agencies, however, can serve their purpose effectively only under the close direction of ministers and, particularly, under that of the Prime Minister. In the absence of such ministerial direction, they become another layer of bureaucracy to be controlled. Furthermore, central agencies with overlapping mandates often compete with one another. In short, individual ministries or departments of government must also be organized to ensure that they are shaped by the required degree of internal political direction and control.

The use of junior ministers or ministers of state has sometimes enabled the Cabinet to exercise more effective control over various specific aspects of public policy and administration. However, the appointment of such ministers has been, at best, unsystematic. Commissioners believe there may be merit in adopting and formalizing a more complex ministry system, comprising a smaller number of senior ministers to whom a larger number of junior ministers would report. At a minimum, clarification is needed to reduce the present uncertainty about the relation of junior ministers or ministers of state to the senior ministers with whom they are affiliated and to senior ministers in general. Some observers have expressed concern about the growth of the Cabinet over the past two decades, a growth to which the use of junior ministers has contributed. Given the complexity and scope of the organization comprising the Government of Canada, however, the achievement of genuine political control with the concomitant accomplishment of a reasonably coherent set of government policies requires a relatively large Cabinet with some degree of hierarchical structure, both among committees and within each large portfolio headed by a senior minister.

Such steps as the appointment of junior ministers, taken to increase the control of political representatives over departmental bureaucracies, have had a measure of success. Insufficient progress has been made, however, in securing greater control over Crown corporations and regulatory agencies. These bodies, particularly major regulatory agencies, have assumed political importance in many vital areas of Canada's economic activity. Not only has the scope of regulatory activity broadened considerably since the Second World War, but such areas as broadcasting, telecommunications and transportation, which have been federally regulated for a longer period, have become more important. Successive governments have commissioned studies and prepared legislation to control such agencies. They have not yet, however, found a fully satisfactory resolution. Without adequate executive direction and control, these non-departmental forms of government organization threaten to undermine our principles of responsible government. Canada has erred in the direction of allowing these bodies too much autonomy and discretion, and they have become virtually separate branches of government.

Admittedly, it is difficult to establish appropriate instruments or procedures to direct and control Crown corporations and regulatory agencies. They are not all alike. They are not departments of government, and they serve different purposes that require different management regimes.

Commissioners are concerned, as we noted in Part III of this Report, that there has been a tendency to manage Crown corporations in a strategic vacuum, without a well-formulated rationale for continuing public participation. Thus, more effective management systems and governmental control can only be assessed within the broader framework of competition and regulatory reform. In our view, the call for greater control has been translated too simplistically into a tangle of bureaucratic red tape surrounding Crown corporations, rather than into the development of a more effective strategic management system serving both the government and its holding operations once it has been determined that those operations are key instruments of public policy.

It is essential, especially for commercial Crown corporations, that the zeal for accountability not lead to a "paper war" among bureaucracies, leaving ministers on the sidelines and Parliament still wondering just what it is that these corporations are expected to be doing. Commissioners have not investigated alternative management systems in any great depth. We would encourage the government to experiment with models which may be closer to private sector holding companies.

In particular, we recommend that the executive have appropriate statutory powers to issue policy directives to Crown corporations and regulatory agencies, except where Parliament, for cogent reasons, explicitly prohibits such powers, as it might, for example, in the case of certain cultural bodies. We also endorse the practice of making capital budgets of Crown corporations subject to Cabinet approval. In addition, we suggest that Cabinet continue to seek means to strengthen its review of regulations formulated by regulatory agencies.

This description adopts as its perspective the traditional concept of public servants as the implementors of public policy, but the public service has been the object of policy as well. The one-fifth of working Canadians employed in the administrative state have rights that must be preserved and, perhaps, expanded or clarified.

In the 1960s, the introduction of collective bargaining at federal and provincial levels represented increased recognition of the public servant as citizen and employee. However, collective bargaining rights in the public sector never equalled those of the private sector. For most of the 1960s and early 1970s, there was no apparent conflict between the responsibility of government as manager of the public service and as manager of the economy. From then on, however, the conflict between the two functions increased greatly. Public servants became the object of new economic management policies which, in some instances, were intended to end or reduce their rights. Although extensive debate about public sector wages and strikes began before the mid-1970s, direct wage controls came into effect only with the 1975-77 anti-inflation program and the 1982-83 "Six-and-Five" program. The former imposed controls on the public sector, as well as on major sections of the private sector, and sought to control both wages and prices. It applied at both the federal and provincial levels. The "Six-and-Five" program applied only to federal public servants. The federal government sought, however, to extend its coverage to other sectors through exhortations directed at recipients of federal grants.

These measures should be related to a series of other steps by means of which governments also sought to reduce bargaining rights previously granted. The Treasury Board took more stringent views about the numbers of workers designated as essential during strikes. This action weakened the efficacy of strike action in the public sector, and the courts later upheld the Board's practice. Some provinces resorted more often to "back-to-work" legislation. Bargaining rights were maintained only if they were not exercised too often or too vigorously. Certain provincial retrenchment and restraint programs further eroded the position of public workers.

Commissioners conclude that since, over the last two decades, the bureaucracy has grown at the same rate as the labour force, and since public sector wages are responsive to economic forces, there is no reason to regret the existence of rights to bargain collectively in the public service, subject to the overriding right of the community in matters of public health and safety.

Issues surrounding political rights, as well as collective bargaining rights, of public servants are also being debated, for in some circumstances these, too, are properly related to the scrutiny of bureaucratic conduct that is central to the general principles of responsible government. Commissioners believe that senior government-policy officials in the permanent public service should have no right to engage in partisan political activity. Other public servants, however, should be free to engage in the full range of political expression, except where conflict of interest could arise. The degree of difficulty in distinguishing senior from junior officials for this purpose is no greater than that of devising criteria for selecting persons who may or may not strike, and a similar means could be used to distinguish the two groups.

"Merit" and "patronage" are two different grounds of appointment. Each helps politicians to achieve some measure of control over the bureaucracy, boards, agencies and Crown corporations. It has been suggested, however, that the upper ranks of the federal public service have become too heavily politicized. Although there have been instances where prominent political appointments violated the ideal of a neutral public service, the argument that the senior bureaucracy has become politicized is misplaced when it is used as a general criticism. The system of appointments based on merit and subject to the recommendation of the Clerk of the Privy Council has worked well.

On the other hand, appointments to a large number of boards and agencies have traditionally been made on the basis of political advice provided to the Prime Minister. This category of appointments may be too large, and the public might be better served if more of these appointments were based exclusively on merit. An all-party group designated by the proposed Parliamentary Committee on the Public Service should review the current practice of Governor-in-Council appointments to boards, agencies, foreign posts, top-level departmental positions, and ministers' staffs, in order to identify positions where the advantage of partisan sensitivity is clear. Commissioners believe that this general review process should be continuous, and that appointments where partisanship is of no clear value should be made on the basis of merit. Further, Governor-in-Council appointments of a non-traditional public service nature should be made in a more open manner. In a parliamentary system, the right of the executive to make these appointments is beyond dispute, but the Cabinet could first inform a parliamentary

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committee about potential appointments. Open discussion of the criteria used to guide selection would seem particularly useful in filling senior policy advisory positions.

## Notes

1. See Paul G. Thomas, "The Role of National Party Caucuses", in *Party Government and Regional Representation in Canada*, vol. 36 (Toronto: University of Toronto Press, 1985).
2. See Peter Dobell, "Some Comments on Parliamentary Reform", in *Institutional Reforms for Representative Government*, vol. 38, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).

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## **Representative Government and Interest Groups**

Representation by population and representation by region shape parliamentary government in Canada. These principles do not, however, determine what is represented or how. Canada's political parties have traditionally competed to represent citizens. Parties, at the national and provincial levels, present citizens with various definitions of the public interest and various means of achieving it. Implicitly, therefore, they signal the ways in which socio-economic interests should be represented. The way in which parties formulate their choices reflects the internal structures of their decision-making processes. Public funds support certain party activities, and laws regulate some, but parties themselves decide their own positions on public policy and choose their own leaders, candidates and officers.

In recent decades, representatives of numerous groups affected by state intervention and public policies have become more directly involved in government decision making. Such groups make vigorous efforts to represent and articulate their views on policy issues, both general and specific. Their involvement in public decision making has implications for party, Parliament and Canadian constitutionalism in general.

## **Parties, Interest Groups and Political Representation**

The dominance of parties has made Canadian politics highly organized. Government by party has disciplined Canadian politics, extensively in Parliament and less so in the various levels of party organization. Our parties are not centralized organizations, but party members share a common collective interest in the pursuit and attainment of governmental power. This collective interest in securing electoral support introduces discipline to party organization. However, several developments have affected the organization and operation of parties and the capacity of the party system to function as the exclusive instrument of political representation in Canada.

First, televised politics has accentuated the personalized character of our parties. Party leaders, particularly the Prime Minister, have become more significant than their colleagues and the party in general because electoral competition, as presented and viewed on television, has focused on leadership. Secondly, public opinion surveys and polls have assisted governments to design policies in response to the preferences of various interests, be they region, class, sex, religion, age or general ideology. Television and the use of polls have significantly undermined two of the most important roles of rank-and-file party members. Television undermines their role in communicating party policies to the voter; polling undermines their role in communicating grass roots opinion to party leaders. Thirdly, well-organized special-interest groups have involved themselves in the processes of political representation. Taken together, these three developments have had important consequences for party government.

Technological change in the form of television and the means of recording public opinion has profoundly affected politics. Established parties have adjusted to it, perhaps because this change does not challenge their place in the institutions of representative government. Indeed, parties have begun to

use the media and polling results to "target" particular sections of the population through selective broadcasting and direct mailing. They have not adapted successfully, however, to the proliferation of organized special-interest groups: such organized advocates of particular interests present a challenge to parties and party government.

Reference to "interest groups" calls to mind widely divergent images. On the one hand, they can appear as essential building blocks of democracy. They provide the opportunity for citizens to articulate their views. They allow like-minded people to combine their resources to ensure a hearing. They provide the regular avenues for participation in general elections. They are also essential for effective policy making.

The other image is that of the "special interest". It suggests narrow, selfish, self-interested concerns at odds with the "public interest", or powerful, wealthy groups which use the "inside track" to gain special privileges for themselves and frustrate the popular will. The term also suggests a cacophonous fragmented chorus of limited, sometimes self-righteous groups which frustrate the building of consensus and paralyse effective decision making. Both images, of course, are partly right and partly wrong. In evaluating fundamental institutional reform, it is necessary to come to terms with the emergence of interest-group politics and with the need for more effective means of consultation between governments and private interests.

Political parties in Canada have, of course, attracted differential electoral support from the broad range of socio-economic and regional interests found in the country. Ideology has been a factor in political success and failure, but leadership and positions on policy and political issues have clearly been more critical, especially for the Liberals and Conservatives. However, except for the relationship of organized labour to the New Democratic Party, organized interest groups and parties have not established formal associations. Interest groups have functioned largely in a non-partisan way, pursuing their aims through contacts with the government, the public service and Parliament. Prolonged periods of one-party dominance have contributed to this pattern. One-party dominance has discouraged particular interests from fostering close attachments to parties consigned to long spells on the opposition benches; links with the party in government are based on its possession of office, rather than on its partisan complexion.

## **Organized Interests and Political Representation**

Organized interests pursue their goals in a wide variety of forums. Many special-interest groups have often forged particularly close relations with the administrative structures of the national government. Increasing state intervention has contributed to the proliferation and, in some instances, to the fragmentation of these organized interests. Indeed, the state has encouraged a number of such interests to organize in order that they may assist in the development and implementation of national policies. Various mechanisms facilitate consultation in relation to this process. Consultative committees,

advisory committees and councils, all comprised of interest-group representatives, have flourished over the past two decades. These forums generally have the effect of linking groups to the administrative branch, and not directly to individual ministers or the Cabinet.

Some interest groups advance their positions in a more public manner, through the mass media, although they may also approach individual Members of Parliament or the Cabinet. Representatives of interest groups often compete with opposition-party spokespersons in criticizing government actions. More and more interest groups seek closer relations with the Cabinet itself. In part, those developments may be explained by the frustration which many groups have experienced in their dealings with administrative agencies.

Public visibility and private access are thus alternative routes to greater influence on policy making. Most groups pursue both "public" and "private" strategies: the full-page advertisement in the daily paper, the press conference, the delegation to the minister, the private phone call between lobbyist and official are all employed. In general, however, groups with wide social acceptance which pursue limited, material goals, and which have a permanent bureaucratic structure of their own prefer the "quiet diplomacy" of well-tended private networks and personal contacts. "Outsider" groups with less legitimacy, more controversial positions, and goals which are more symbolic or ideological tend to pursue the more public strategies, from marches to petitions. Some groups, of course, make a successful transition from "outsider" to "insider". Ministries and other agencies are created to respond to their interests; they become more integrated into the administrative processes of government.

Governments, however, are becoming less able to satisfy the many conflicting demands made on them by special interests. The increasing complexity of society is reflected in an increasing fragmentation of interests which become more and more difficult for "normal" political processes to accommodate. Efforts to restrain government expenditures have increased the problem: the politics of "zero sum" are inherently more conflictual than the politics of growth. At the same time, there are demands for comprehensive policies to encompass broader interests and concerns. These demands take the form of calls for greater stability in financial and economic policies; for reduction of the discretionary powers of ministers, administrative officials and regulatory boards to make decisions without advance notice to the affected parties; and for greater coherence in policies and practices that affect large segments of the public. These trends are frequently at odds with a political process geared to incremental responses to a shifting set of discrete special interests.

What measures and procedures, then, will best facilitate involvement of Canadian interest groups in public decision making, especially as it concerns economic policy? Commissioners wish to encourage those interests involved to interact with one another more frequently and more openly and visibly, and to take greater account of the broader concerns and conflicts of Canadian society. We look to Parliament itself to determine the final resolution of those conflicts.



## The Contributions of Consultation

In all modern industrial societies, the representation of private-sector interests in public decision making has become an important issue. Pervasive interdependence between the public and private sectors has created a situation in which what major economic interests can achieve depends not only on their own initiatives, but also on the sensitivity of the state to their concerns. Conversely, the success of government policies depends heavily on the response of private interests to them. This fundamental interdependence has produced intense pressures for new mechanisms for consultation between the public and private sectors, inevitably involving business and labour, but extending, to an even greater degree, to other organizations in the social and voluntary fields.

Canada has not gone as far as some countries in the direction of comprehensive national consultations. Our consultative practices tend to be fragmented, informal and episodic. Are such practices adequate in light of recent Canadian experience and anticipated future needs, such as the continuing pressures of economic adjustment? Commissioners' terms of reference invite us to examine and report on "means for improving relations between governments, business, labour and other groups". This mandate reflects a widespread perception that these relations have involved unnecessary conflict, and that failure to resolve the tension has incurred undue costs. Relations between the federal government and the Canadian Labour Congress have been seriously strained for almost a decade, and intense disputes between government and labour have erupted in recent years in several provinces. Contact between business and government has been less generally antagonistic, but consultation has been irregular. Sharp disagreements have occurred in some sectors, and there has been evidence of continuing frustration and suspicion.

The tensions of the last decade are at least partly a consequence of fundamental disagreements about the appropriate directions for Canadian economic policy to take. No amount of consultation would have resolved these disagreements. Nevertheless, representatives of business, labour and the general public expressed to this Commission strikingly similar sentiments about their sense of exclusion from economic policy formation. They repeatedly emphasized the need for more effective consultation. The Voluntary Planning Board, for instance, stated:

*We see consultation, during conception, planning, implementation and evaluation of programs and policies as crucial to effectively dealing with our economy.*

(Voluntary Planning Board, Brief, October 19, 1983, p. 3.)

No one expects new mechanisms alone to produce an all-embracing social consensus. Many Canadians hope, however, that these mechanisms might contribute to more common understandings of our economic problems and shared expectations about our prospects. This could increase the effectiveness of government economic policies, to the advantage of all concerned.

Consultation refers to a wide range of practices, from casual telephone conversations to elaborate institutions for formal decision making. To clarify



what is meant by consultation in any particular context and what is expected of any consultative process will help to prevent disappointment and recrimination.

Basic consultation consists of the exchange of information and opinion about issues of common concern. Participants can learn about one another's views, explore areas of agreement, and clarify areas of disagreement. Consultation involves common education: while it may not result in agreement, it can influence decisions taken by participating groups. An important objective of consultative processes, therefore, is better-informed decision making at all levels.

Consultation can go further and seek to build consensus among parties. Consensus building requires a concerted attempt to agree on the nature of problems and on policy options available. Such a common understanding will usually require common analysis. It is not easy to accommodate divergent and often firmly held interpretations of issues important to participants. Forming consensus is no mean feat; maintaining consensus is equally demanding.

Elaborate consultation can ultimately involve formal co-operative decision making. Representatives of government and of major private interests can negotiate among themselves to establish a compromise position which becomes the basis of public policy and of compliance by other parties. This form of consultation, which is often described as "corporatist", clearly requires highly centralized interest groups and close integration of those interest groups and government. It is a characteristic element in countries with a tripartite incomes policy and a broad social contract among business, labour and government. Corporatist or tripartite arrangements can extend to joint management of administrative agencies responsible for implementing accepted policies.

In Canada, the scope for consultative bodies with decision-making power is generally quite limited. Fragmentation and dispersal of authority in public and private sectors and the complexities of our federal system reduce the applicability of the tripartite model. Moreover, tripartite decision making would circumvent our parliamentary institutions in ways that most Canadians would reject. Corporatism also involves the potential danger that the interests of non-participating groups would be ignored.

Nevertheless, we Canadians need more effective consultation and consensus building in economic and social policy. As Commissioners have argued throughout this Report, Canada faces crucial new challenges, and responding to them will require sometimes painful adjustments. Many groups possess considerable capacity to block or impede these changes; they cannot and should not be imposed coercively. There is a crucial need for agreement on the manner in which the burdens and benefits of the necessary changes will be shared. All these factors demand that maximum efforts be made to reassure all groups that they will be treated fairly, and that they will participate in the collective choices which must be made.

Consultation can help to create shared perceptions of our nation's economic and social problems. Without such contact, disagreements over basic data on economic trends can deepen conflicts unnecessarily; public policy may fail to incorporate information and expertise from the private sector; and the sort of

broad consensus that would stabilize policies beyond the term of a single minister or government will not be formed. Government commitment to consultative procedures can reassure the private sector that the basic ground rules of public policy will not change suddenly and without warning. In this way, consultation can help to reduce uncertainty and co-ordinate expectations about economic prospects. Broadened participation by all sectors, including groups directly concerned with social aspects of economic policies, will help to balance economic benefits and social costs.

Formal consultative mechanisms seem especially important in a large regionalized country such as ours. Informal communication networks do not always extend across territorial, linguistic and cultural boundaries. Moreover, distances between the national capital and the major centres of commerce and industry prevent members of the public and private sectors from interacting easily. As the Task Force on Business/Government Interface observed:

*In London, Paris, Rome or Tokyo, cross-fertilization takes place naturally. In Ottawa, the number of flights from Toronto and Montreal is only one tangible reflection of how much has to be done to create a structure where exchange can occur more readily and to leaven the 'company town' atmosphere of our national capital.<sup>1</sup>*

Recent developments appear promising. For example, special investigatory committees, sub-committees and parliamentary task forces have travelled across Canada to hold hearings. This mobility has given government access to a much broader range of public information and opinion. Teleconferencing offers further opportunities for communication and consultation among representatives of government and private sector interests.

Consultation aimed at consensus building is not without dangers. In industrial policy, for example, some critics insist that elaborate consultative mechanisms would impede adjustment. They would over-represent older troubled industries, tying government even more firmly to those seeking protection from change. Existing industries are often well organized politically; almost by definition, there is no political organization for "emerging" industries. Consultation, therefore, can become a protective barrier to the process of adjustment that furthers economic development. Perhaps competition or conflict would achieve greater economic flexibility than would consensus. Such warnings do stand as a caution against the construction of overly powerful bodies, especially those with quasi-decisional powers over specific areas of public policy.

Despite such concerns, however, the economic case for more-structured, continuing consultation among business, labour and government seems sound. There is no doubt that during the last decade, much of the acrimony of public debate over the economy has been the result, rather than a primary cause, of Canada's economic difficulties. If national consultation can ensure greater understanding of the social and economic problems confronting us, it will be well worth the effort it involves.

Consultation would also affect the quality of political life. The arrangements we use to conduct consultation must enhance, not undermine,

democratic processes. A powerful, institutionalized, tripartite system would constitute an alternative method of representing and accommodating the claims of one particular set of social interests, but this system would be in continuous tension with the principles of responsible government. Even if the sovereignty of elected bodies were not undermined by such corporatist practices, the centralization of authority required to operate tripartite institutions encourages élitist politics, accentuating the dominance of the executive over the legislature in the political realm and the power of central leaders over members in private economic institutions. While some democratic societies have long traditions of reliance on such élite accommodation, in other societies, including Canada, the image of powerful groups striking deals with government in private sessions evokes an uneasy response.

More modest consultative mechanisms can channel the inevitable and continuous interaction between public and private sectors and contribute to informed public debate. They can balance the pressures that groups put on government. A common criticism of pluralist democracy is that not all interests are equal. Some interests have far greater resources to devote to consultation with government, and informal *ad hoc* consultation favours the well organized and well funded at the expense of the poorly organized. Because formal structures of consultation require decisions about which groups should be heard, a more equitable balance of voices is likely to result.

Public consultative processes can contribute to more broadly informed debate over economic issues. If consultation takes place exclusively through private contacts between interest groups and senior officials and ministers, essential information and judgements remain hidden from the public, and the quality of parliamentary debate and media scrutiny is thereby impoverished. Public exchanges over economic issues can enhance the quality of debate, raising public awareness and improving media commentary, sharpening the critical perspectives of legislators, and exposing recommendations of interest groups to public scrutiny. Moreover, the opening of these debates to public scrutiny reinforces the ultimate control of the citizen over policy decisions and government operations. Private consultations would continue, of course, since they are clearly essential if certain aspects of relations among business, labour and government are to develop; but the consequences of modern economic policy are too far-reaching to be shaped exclusively in private. Effective consultation can assist in the economic and political affairs of a modern nation. Canada, however, has some distance to go in this direction.

## **Consultation in Canada: The Case of Business and Labour**

In comparison with the elaborate, centralized, consultative structures in some Western countries, Canadian consultation has two striking characteristics. First, our consultative practices have tended to be fragmented, informal and episodic. There have been few attempts to sustain a structured, comprehensive dialogue between the public and private sectors. Secondly, we have, until recently, encouraged separate representation for each interest, with business and labour associations operating through different channels. We have placed little emphasis on bringing the representatives of different perspectives into

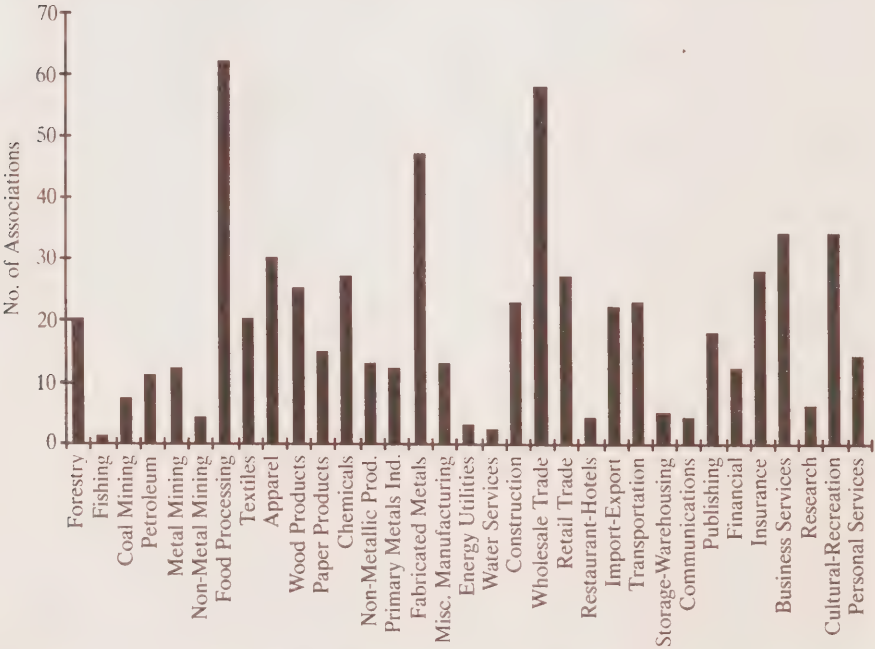


touch with government so that they can develop a common understanding of important economic issues. Indeed, the very term “three social partners”, so common in Europe, is relatively unfamiliar to Canadians.

The fragmented competitive nature of consultation is obvious in relations between Canadian business and government. There is much contact between the public and private sectors. Managing the relationship has become a sizeable industry: it involves some 480 business associations and a growing army of professional consultants and specialized legal personnel; it requires officials responsible for government relations in major corporations; and it demands an increasing portion of the time of most chief executive officers. Many of these people are in almost daily contact with public officials. Figures 21-1 and 21-2 illustrate the growth of linkages between the public and private sectors.

The decentralized approach to consultation at the national level has strengths and weaknesses. It is a sufficiently diverse and flexible process to accommodate an endless series of specific issues created by the growing interdependence of business and government. Most contacts concern the administration of existing policies and regulations, and relate to fairly specific problems facing particular sub-sectors of the economy or even individual firms. In these instances, the consultative process works reasonably well.

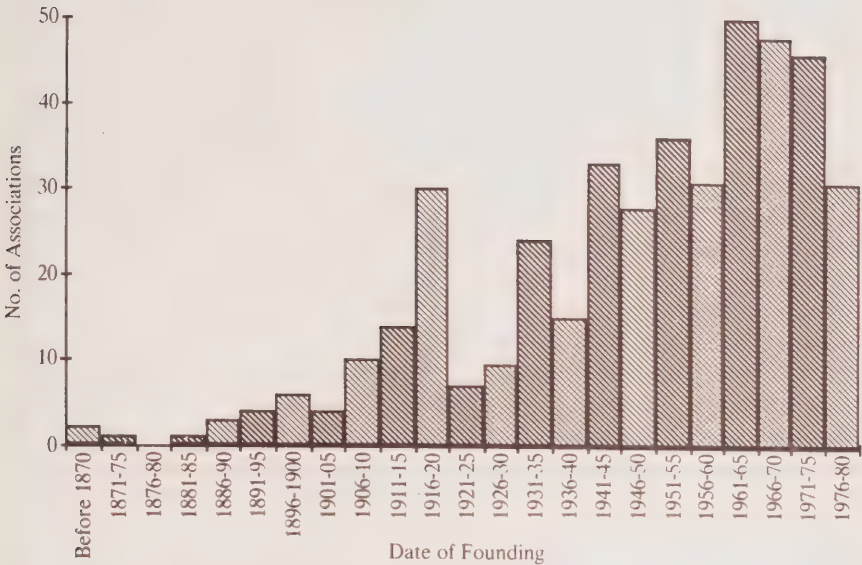
**FIGURE 21-1 Distribution by Sector of Associations Representing Business**



Source: William D. Coleman, “Canadian Business and the State”, in *The State and Economic Interests*, vol. 32, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).



**FIGURE 21-2 Period of Founding of Existing Associations  
Representing Business**



Source: William D. Coleman, "Canadian Business and the State", in *The State and Economic Interests*, vol. 32, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).

Disagreements abound, but communication networks are in place to maintain the relationships.

Most business associations represent special-product interests. There is no umbrella association to speak authoritatively for business as a whole. The Canadian Chamber of Commerce, the Canadian Manufacturers' Association, the Business Council on National Issues, the Canadian Export Association, the Canadian Federation of Independent Business, and the Canadian Organization of Small Business represent different constituencies or compete to represent some element of the business community. National business organizations do not yet present a broadly based position on major economic issues. Differences are inevitable between small businesses and major manufacturing enterprises, between Canadian-owned firms and multi-nationals, and between those firms which profit from exports helped by a low value for the dollar and those which are supported by subsidies and tariff protection.

An additional reason for poor consultation on broad economic issues is the continued reliance on informal, unstructured relations between government and business. During the Second World War and the immediate post-war period, contact between these two sectors was often based on personal relations which "worked" the more readily because leaders of both groups had relatively similar backgrounds and social views. Such relations, however, appear less prevalent today. Greater government activity in economic affairs

has generated many more points of friction. Changing social values have subjected all institutions to closer scrutiny. Consumer groups, environmentalists, nationalist organizations and organized labour all actively challenge the views of the business community. Changes in the federal bureaucracy, especially the growth of strong central agencies, have disrupted traditional contacts between businesspeople and line departments close to their immediate concerns. The growing importance of Cabinet committees and central agencies has reduced the autonomy of individual ministers and their departments, and made the task of all interest groups more difficult. According to one former participant in the process, the chief executive officer "who believes that a trip to see the minister or the deputy will solve his problem is operating on a false premise."<sup>2</sup>

Since traditional links have been eroded, the lack of formal consultation over broad economic policy becomes more important. Flurries of consultation—dialogue in crisis—occasionally fill the gap. For example, waves of private consultations initiated by the federal government preceded and followed the 1982 federal budget and the "Six and Five" program that it launched. *Ad hoc* discussions in the middle of a crisis, however, are not as effective as a sustained predictable relationship. Moreover, to rely on private contacts alone is to ignore the importance of consultative mechanisms in enhancing public debate.

Other groups, too, experience the same difficulties, in terms of internal structure and mechanisms for consultation. The Canadian union movement is characteristically decentralized, regionally diverse and occasionally subject to differences of view between public sector and private sector union leaders. The voluntary community, involved in social issues related to economic policy, is also diverse in outlook. It has strong traditions of local autonomy and participation, and the provinces have responsibility for many of the programs in which it participates.

Until recently, there has been little interest in building consensus among "social partners". Organized labour has traditionally participated through separate channels from those of business. Labour representatives have never liked the procedures. In their view, labour has never had close relations with national policy makers and has never participated fully in the formulation of national economic policy. Various advisory bodies were established after the Second World War, but labour has seen the results as mixed, at best. In protest against the Anti-Inflation Program of 1975, the Canadian Labour Congress severed formal consultative links with government, leaving the Economic Council of Canada and the short-lived Canada Labour Relations Council. A decade later, it has not re-established those links, and significant parts of the labour movement remain sceptical about the value of collaborative bodies.

In the past decade, however, there has been greater emphasis on consensus building among business, labour and government. Canadian governments have experimented with mechanisms involving all three groups or just business and labour. The Economic Council of Canada, founded in 1963, had a wide membership. In 1977, the federal government established 23 task forces to investigate the major sectors of Canadian manufacturing and the

Second Tier Committee to consolidate their work. The next year saw the setting up of the Consultative Task Force on Industrial and Regional Benefits from Major Canadian Projects; the purpose of this Task Force, co-chaired by a business leader and a labour leader, was to examine benefits from large-scale resource projects. In 1984, the Canadian Labour Market and Productivity Centre was founded to advise on labour resources and productivity. Several provinces have created consultative committees on economic policy or industrial relations. Quebec has been particularly active, holding sectoral conferences and *grands sommets* on its provincial economic problems.<sup>3</sup> Not all of these mechanisms have been successful or equally well regarded, and none has fundamentally altered Canadian economic policy. Nevertheless, they have all sought to involve business and labour in a search for common understanding on important economic issues, and they have provided experience that may help Canadians to develop more elaborate mechanisms for building consensus. Overall, Commissioners strongly urge that dialogue continue within sectors and industries on how to improve Canada's economic prospects. Discussions should bring together both business and labour representatives with representatives and officials from the federal, provincial and municipal levels of government, as well as with representatives from other groups as necessary. We Commissioners believe that prolonged discussions of this nature on a relatively narrow agenda are vital.

In developing an overall strategy for consultation between the public and private sectors on major issues, it is essential to build on Canadian experience in ways which are compatible with the institutional framework of business and labour, and with our parliamentary traditions. More effective consultation requires adjustments both in the private sector and in government. Intensive consultation would place severe demands on the national organizations that represent business and labour. To shape national consensus on major economic issues would require participating groups to develop clear positions and priorities. They could not leave the hard choices and decisions about trade-offs to government as has happened in some earlier advisory exercises. As a study of consensus mechanisms in Europe made very clear, the role of organizations representing business and labour is critical. Conflicts among employers and among employees are inevitable, but "their internalization and management by peak organizations makes the task of building national consensus that much easier for governments."<sup>4</sup> This concern led the Science Council of Canada to recommend that "the private sector seriously consider the need to build much stronger organizations" to participate in the formation of economic policy.<sup>5</sup>

To strengthen representation of the private sector forms only one side of the equation, however. More formal and continuous dialogue would also require establishment of new consultative mechanisms through which business and labour could communicate with government. The preceding review and recent Canadian experiments suggest possible directions. The new trend to establish business/labour and business/labour/government advisory bodies deserves support and encouragement. Such bodies can moderate conflicts and build common awareness in critical areas. In many fields, the interests of business and labour overlap significantly, although in some, their



interests are directly opposed, and this limits prospects for government to act on the basis of consensus. Moreover, lasting consensus on economic and social policy or economic management is unlikely, since transitional costs may be high for some sectors, and the international situation may change.

Recent Canadian experience suggests that it would be useful to develop guidelines to shape such initiatives. Commissioners are mindful of the caution expressed by a representative of the Canada West Foundation:

*I am not convinced that it is possible to legislate meaningful consultation. I think it has to be a state of mind, a sense of confidence in [each] other that you are both trying to achieve the same goal.*

(Canada West Foundation, Transcript, Calgary, November 8, 1983 [vol. 42], p. 8618.)

Acknowledging the validity of that caution, Commissioners believe the following considerations can enhance the success and usefulness of consultative arrangements:

- Consultative mechanisms are more likely to be successful when they focus on clear, specific objectives.
- Consultation should be a continuing process facilitated by reasonably predictable arrangements.
- Governments must make a firm commitment to maintain any consultative processes they undertake. Everyone's time is valuable. Effective consultative arrangements require that non-governmental participants be accorded some influence over the agenda and the decision-making schedule. Responsibility for the overall policy-making process, however, must rest with the government of the day.
- Consultative processes aimed at consensus building require fair representation among many groups in society and, usually, parity between business and labour.
- Effective consultation requires general awareness of appropriate information and governing assumptions. Sharing and co-operative refining of information are prerequisites to the consultative processes which we seek to encourage.

The matter of funding also arises in connection with consultation. The claim is sometimes made that public support is needed for the research, communications and travel associated with participation in various forms of consultation. This Commission itself received inquiries from prospective participants (including major national associations) in its hearings and consultations about the availability of financial assistance. We sympathize with the needs of individuals and small groups anxious to be involved in ongoing consultation, and we are aware that the tax treatment of expenses differs among groups. But we have no guidelines to offer on the weighting of competing claims for limited resources. Those responsible for consultation should respond to financial needs in accordance with their own general operations and the principle that diverse participation should be encouraged.

Commissioners believe that a network of special-purpose bodies would offer greater advantages to Canada than would a single, broad, advisory council. As one intervenor remarked in our hearings:



*Public administration involves a collective decision process whose essential feature is the resolution of conflicting interests. This process rests on acceptance of a wide variety of institutions for mediation, negotiation and reconciliation.*

(Rod Dobell, Brief, September 21, 1983, p. 35.)

For the purpose of consultation centred on specific industries or economic sectors, the guidelines we have suggested for business/labour/government involvement are appropriate. Where representatives of particular industries and economic sectors are to be consulted, relations between public and private representatives will largely involve contacts with the executive branch of government, will frequently be ongoing, and will emphasize specific and relatively short-term actions. Where consultation is intended to serve other functions, however, different institutional arrangements must be considered.

## **Parliament and Consultation**

Canadians need a national consultative forum or process for determining general economic directions. The arrangement should permit representatives of business, labour, the voluntary sector, and government to exchange information and views about the state of the economy, to survey forecasts of medium-term prospects, to examine difficulties in various sectors, and to consider policy options. Any such forum should also help to inform public and parliamentary debate on the economy.

Commissioners have considered several approaches. One possibility would be to arrange a national economic summit like the one which was held in Australia in April 1983, or like the National Economic Conference held here in Canada in March 1985. A summit offers a number of advantages, including flexibility of agenda and membership. In a Canadian summit, provincial government participation should be encouraged. We suspect that on the grounds of tradition, provinces would regard their participation here as more appropriate than in a parliamentary forum, although this did not prove to be their attitude in the National Economic Conference. It is important to form realistic expectations of such meetings. The Australian conference ratified a detailed incomes policy and agreed to a fiscal framework for the government. Such consensus is unlikely in Canada. A Canadian summit is more likely to serve as a forum for debate than an instrument of consensus.

While a national summit seems to provide an ideal means of initiating intensive consultation, it has its limitations. Annual summits might prove cumbersome and, indeed, inadequate: a continuing dialogue requires a permanent forum. Furthermore, summits, like mechanisms for sectoral consultation, emphasize government involvement at the executive level. A possibility that this Commission finds more attractive is the formation of a permanent Economic Policy Committee of the House of Commons. The Committee would hold annual pre-budget hearings; take testimony about the nation's economic prospects from the Department of Finance, the Bank of Canada and the Treasury Board, and from related agencies such as the Economic Council of Canada and the Science Council; and gather the views of major groups, including business and labour associations. In addition, the

committee could hold hearings on other important economic issues throughout the year. Its hearings should be televised and should become part of the annual cycle of economic policy formation.

Such a committee could inform public and parliamentary debate, and become an instrument for collective debate about the economy. One brief to this Commission addressed this point:

*Ultimately the skill of the Federal Government to give and share leadership in goal setting with Canadians and not for Canadians will determine its effectiveness in carrying out its mandate.*

(National Council of YMCAs of Canada, Brief, November 30, 1983, p. 17.)

A permanent Committee would integrate economic interests into the policy-making processes of the House of Commons, the central representative body of Canadian life. In moving from specific problems to the more general issues of economic policy making, it becomes increasingly appropriate to link consultative mechanisms to Parliament, through which the government is ultimately responsible for its decisions.

This Commission's concerns about participation in consultative arrangements are also closely related to the subject matter or issues under consideration. Where discussions focus on sectoral issues with relatively clear objectives and defined scope, it is desirable to involve representatives of business and labour who are familiar with the detailed circumstances. When the object of consultation is broader and less constrained, taking into account the general directions of economic policy, representatives of other groups and constituencies should also be involved.

Commissioners believe that consultation through Parliamentary or legislative forums is most likely to further the ongoing process of public education about the nature of the issues involved in economic policy making and the need for negotiating difficult trade-offs. The greater visibility of legislative forums is an important advantage in this respect.

## **Reform of the Budget Process and Parliamentary Consultation**

The participation of interest groups in the consultative process has particularly important implications for the preparation of the federal budget. Since interest groups both benefit from and bear some of the costs of the various components of the budget, it is desirable to make their demands more visible. Reform of the budgetary process should be viewed in a broader context than it has been in recent years.<sup>6</sup>

Canadians elect the members of the House of Commons and the provincial legislatures, making these the most legitimate political institutions in our constitutional system. Private interests make a different democratic claim on society, and it is less easy to define their legitimacy, which has always been in tension with parliamentary democracy. Today, established and emerging interests, now coming to the fore in a more rights-oriented society, make many claims on government. Yet while Parliament exists to hold the executive to account, there are no formal institutional arrangements or

governing principles to hold accountable the private interests, which are major beneficiaries of the national tax and expenditure system.

National bodies representing big and small business, labour, consumers, agriculture and other sectors present views on fiscal, monetary and social policy, privately and in ritualistic consultation before the Budget Speech. They often present views in such a way as to convey what they would do if they were the government; that is, they present their own views in the guise of the national or public interest. At the same time, they are unhampered by the responsibility for governing or the need to relate their own claims to those of others.

The democratic right of interest groups to express their views is undeniable. Indeed, the quality of the state's economic decisions depends on the continuing exchange of information with private sector interests. However, although the views of interest groups have considerable significance for all Canadians, they are not examined on a sustained basis. The contrast between our treatment of the government's positions and those of opposition political parties is clear: whereas we hold the government responsible for its actions, we do not hold private interests responsible for their actions in the public realm. Commissioners believe that this distinction requires some reconsideration, notably in the context of preparing the budget, where more extensive advance discussion with interests throughout society would be advantageous.

This Commission's research and hearings suggest that there have been changes in the part the budget has in setting national goals.<sup>7</sup> First, because the aims of elected politicians, both federal and provincial, have broadened greatly, budgets now reflect a wide range of social, as well as economic, goals. They permit governments to communicate priorities and to indicate that they share the values of various segments of the electorate; they also reflect the open and hidden claims on the tax and expenditure components of the public purse, which are made by interests in the political system. Secondly, the capacity of federal budgets to indicate major national goals clearly has been reduced by the breadth of objectives inherent in the budgets and the increased frequency of their presentation. Thus, their release has often represented tactical occasions, rather than presentations of coherent signals about the state of the economy. Bombarded by specific demands from interest groups and by persistent detailed criticism from opposition parties, governments have often wished to be seen as "doing something" in response.

Thirdly, the contribution which the national budget can make to goal setting is affected by the legacy of successive approaches to budget reform. Often-conflicting norms and principles, which are linked, in turn, to political ideologies, are the remnants of these approaches, which have included balanced budgeting, Keynesianism, monetarism and various versions of managerial rationality. Indeed, experts who have a specialized knowledge and perception of budgetary matters are increasingly involved in the process of preparing the budget. Their involvement has, to an extent, given the process a life of its own, independent of governmental direction.

Commissioners regret that federal budgets are being introduced with increased frequency, since their capacity to provide economic direction to the country has consequently been reduced. One could ask, for example, whether



the process of setting national goals has been improved: budgets now reflect a wide range of social and economic policy objectives, yet more goals imply more trade-offs and, accordingly, less clarity. From a democratic perspective, however, this proliferation of goals is not inherently undesirable. Indeed, Commissioners welcome the incorporation of micro-economic realities into the budgetary agenda. Nevertheless, we believe discussions of the budget must be restructured to permit scrutiny and debate in this more complex context.

Commissioners are convinced, too, that inadequacies in current practices of scrutinizing taxation and spending should be addressed through reform. Both taxation and expenditure are scrutinized to some extent: by Parliament, as it debates legislation; and by private interests, as they watch over their stakes in the fiscal process. However, whereas the Auditor General's Office monitors government spending at the federal level on a continuing basis, there is no similar agency to monitor taxation. This institutional imbalance needs to be addressed, a point which the 1984 annual report of the Auditor General's Office stresses.

Aside from this imbalance, there are other problems to be addressed in the monitoring process. The adoption of certain auditing practices by recent Auditors General indicates distortion in our system of financial accountability. In a comparatively short period of time, for example, the Auditor General's Office has received a vast increase in its resources to scrutinize spending. An Auditor General may not, however, direct his office to scrutinize policy *per se*, since the position is not an elected one. The office has therefore used "value-for-money" auditing to focus instead on "systems" of information and decision making. Meanwhile, elected members of Parliament lack adequate resources to scrutinize policy as their job demands. The practice of "comprehensive" auditing indicates another aspect of the problem; Commissioners believe that it is incorrect to equate the duties of the Auditor General's Office with those of Parliament itself. Recent statements to the effect that only the Auditor General can hold the government accountable indicate a need for change.

Commissioners would prefer to see the Office of the Auditor General focus on the more traditional auditing functions, that is, checking honesty, probity and efficiency in government finances. Broader aspects of policy and program should be the concern of elected members of Parliament. These politicians should emphasize social and political values, as well as fiscal values, while looking at the political goals which underlie spending and taxation, and while maintaining financial efficiency as a primary criterion.

In this way, while the Auditor General's Office examines financial efficiency as such, Parliamentarians, equally backed by analytical resources, would complement this analysis and other analyses. Both the Auditor General's Office and the Economic Council of Canada would provide analysis and research support for the House of Commons Economic Policy Committee as it scrutinized policy on taxes and expenditures. Elected politicians, backed by analytical support, would then be able to scrutinize proposed tax decisions before the introduction of the budget and throughout the year. Parliament could speak about programs plainly and directly, rather than keeping to the



indirect and convoluted language of “comprehensive” auditing employed by the Auditor General.

The broad contours of a reformed budget process would be along these lines: a standing House of Commons Committee on Economic Policy would hold an annual series of pre-budget meetings timed to allow its work to influence budget preparation. During televised hearings, it would analyse the government’s performance. Although ten million Canadians will not suddenly become avid fans of fiscal-policy television, the complex issues involved in preparing the national budget will become more directly accessible to the citizens affected by the outcome. In addition, interest groups will have a better opportunity to learn the positions others are taking on questions of general concern. We believe that similar procedures to increase public involvement in, and understanding of, budget making would also be appropriate at the provincial level.

Other aspects of the budget process should also be changed in order to permit broader discussion and debate of the issues. Commissioners advocate departing once and for all from the rigid practice of budget secrecy. Such secrecy limits full internal discussion of the budget within the Cabinet; thus it not only reduces collective Cabinet responsibility for what is arguably the government’s most important set of decisions, but also increases the probability of major errors, such as occurred in the 1981 Budget. Moreover, budget secrecy is out of step with current practice: such extreme secrecy does not accompany other decisions, despite comparable possibilities for private gain. Finally, tradition requires that the Minister of Finance resign when a breach of budget secrecy occurs. Although this step is no longer taken automatically in all instances, there remains an expectation fostered by the competitive political process that perhaps it should be. Confusion between evolving practice and historic expectation has thus produced a situation in which the practice of a basic convention of Parliament lacks clarity.

Commissioners are not arguing for the elimination of secrecy as such; Cabinet secrecy, for example, encourages frank debate within the executive. Secrecy also has important implications for financial issues. It prevents untimely disclosures of possible government decisions which could seriously affect financial markets, and it limits situations where “insiders” could use advance knowledge of economic decisions, or even of the possibility of such decisions, to their own financial gain. In addition, secrecy ensures that any major government decision is announced in an orderly way, rather than revealed unintentionally in bits and pieces. Nevertheless, these considerations certainly do not require the comprehensive budget secrecy that governments have attempted to secure in the past.

We believe that the convention of comprehensive budget secrecy must be reformed in order to begin a movement towards more effective advance discussion and consultative arrangements. Since the principal obstacle to a less comprehensive practice of budget secrecy is Parliamentary convention, we urge the House of Commons to initiate such a change.<sup>8</sup> This reform will have to include a more precise understanding of the circumstances in which strict budget secrecy must continue to apply and of those when its relaxation is appropriate.

Another issue to consider in the matter of reforming the budget process is the timing of budget presentations at both federal and provincial government levels. Commissioners believe that a reasonable case can be made for the two levels to agree to co-ordinate the presentation of revenue and expenditure budgets in all legislatures, adopting an arrangement whereby the federal budget would either precede or follow most provincial budgets by two or three months. Since provincial governments generally present their budgets in the spring, the federal government should attempt to align its practice with theirs; this would require some adjustments to its internal budget and planning cycle. Concurrent debate in all legislatures would serve to focus pre-budget consultation between federal and provincial governments and between the public and the private sectors. An obvious difficulty with this type of synchronization is that finance ministers do not readily give up the tactical flexibility that an uncertain budget date permits; and even an agreed date can always be circumvented by an "economic statement". However, by co-ordinating the presentation of the eleven budgets, a kind of nation-wide discussion of federal and provincial economic goals and priorities could be created. In our view, such an opportunity to discuss these priorities is much needed.

Overall, consultation among governments and between public and private sectors should complement parliamentary scrutiny of the federal budget. Commissioners are not proposing that any single institution can fulfil the need for wide-ranging budgetary consultations and debate which we believe Canada needs. Federalism, parliamentary government and the right of interest groups to associate freely and to lobby are central to our political life. Discussions about the economic goals and priorities of governments will therefore continue to take place: in intergovernmental settings, in discussions with ministers of finance and their officials, and in the proceedings of parliamentary and legislative bodies. Nevertheless, we believe that a parliamentary forum would provide the best means of address to right the two imbalances in our current budget process: the relative lack of scrutiny of taxation as compared with spending; and the failure to examine openly and thoroughly the fiscal, tax and spending proposals of major private interests. The changes we propose would strengthen the role of the House of Commons, Canada's primary democratic, representative institution, in making economic policies.

## Notes

1. Canada, Task Force on Business/Government Interface, *Report*, prepared for the Department of Industry, Trade and Commerce (Ottawa: Minister of Supply and Services Canada, 1976), p. 25.
2. James Gillies, *Where Business Fails: Business Government Relations at the Federal Level in Canada* (Montreal: Institute for Research on Public Policy, 1981), p. 109.
3. Pierre Fournier, "Consultation in Canada: Case Studies and Perspectives", in *The State and Economic Interests*, vol. 32, and Ken G. Waldie, "The Evolution of Labour-Government Consultation on Economic Policy", in *Labour-Management*

- Co-operation in Canada*, vol. 15, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).
4. M. Cooper, *The Search for Consensus* (Paris: OECD, 1982).
  5. Science Council of Canada, *Canadian Industrial Development: Some Policy Directions* (Ottawa: Minister of Supply and Services Canada, 1984), p. 52.
  6. See G. Bruce Doern, "The Politics of Economic Policy: An Overview", in *The Politics of Economic Policy*, vol. 40, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).
  7. Allan M. Maslove, Michael Prince, and G. Bruce Doern, *Federal and Provincial Budgeting*, vol. 41, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).
  8. A number of recent studies review specific possibilities. See Conference Board of Canada, *Consultation and Budget Secrecy: Reforming the Process of Creating Revenue Budgets in the Canadian Federal Government* (Ottawa: The Board, 1985).

# **Parliamentary Government and Federalism: The Reconciliation of National and Regional Interests**

## **National Institutions and the Representation of Regional Interests**

Democratic government requires that all citizens be fairly represented in the governing councils where decisions are made on their behalf and where divergent interests must be reconciled. Representation takes many forms. At its heart is the equal representation of individuals, expressed in the term "one person, one vote", but it also covers the social and regional groupings into which any complex society is divided. Effective means of representation are not only requisites of democracy; they are also the foundation of effective government. As a practical matter, policy making will fail if the views of all relevant groups are not considered. If large sections of the population believe government to be unrepresentative, then its capacity to promote compromise, to provide dynamic leadership, and to secure the consensus necessary for voluntary compliance will be eroded.

History, culture, economics and the design of our political institutions have all ensured that within the national framework, Canadians think of representation in regional or provincial terms, in conjunction with, but in partial tension with, the equal representation of individuals. Thus representation in national institutions must be thought of not only as the representation of individuals, but also as the representation of regional or provincial interests. The creation of an appropriate system of representation, therefore, is not a straightforward issue to be determined by a simple formula.

Federalism is one primary means through which we Canadians structure our institutions to represent regional interests. Federalism responds to regional interests through its premise that for some purposes, provincial communities have the right to make their own decisions and to enact their own preferences or priorities, without being blocked by national majorities and without the need to secure national consent. For other purposes, federalism assumes that the relevant community is the whole country, and that the will of the national majority represented by the national government should prevail.

The growth of government and its changing roles have seriously blurred the distinction between provincial and national. Today the national government acts in a multitude of areas of local import and concern; provinces do much that is vital to national purposes.

The practice of contemporary federalism also suggests that one means – but not the only one – of reconciling national and regional interests is through the processes of intergovernmental relations. Indeed, that reconciliation is an essential purpose of what we know as "executive federalism". Commissioners do not, however, accept a model which sees the provincial governments as the sole representatives of matters of regional or provincial interest, and the federal government as the sole articulator for all matters of national interest. Rather, the logic of federalism assigns to provincial governments responsibility for representing the interests of their residents



within areas of provincial jurisdiction; and to the national government it assigns the responsibility for articulating the interests of Canadians in areas of federal jurisdiction.

The federal government, therefore, has a national role that requires sensitivity to provincial and regional interests. However well the institutions of federal-provincial relations work, they can be no substitute for a regionally representative federal government. As the one set of political institutions in which all Canadians are represented, the federal Parliament has a fundamental responsibility to serve as the arena in which we reconcile, accommodate, balance and compromise the interests of each and every region in national policy.

The national economy includes important regional variations in natural resources, size of local markets, access to international markets, and infrastructure for economic development. These variations are as significant now as they were at the time of Confederation. Recent experience with energy, industrial restructuring or reform of the Crow's Nest Pass Freight Rates confirms the persistence of regional dimensions in national policy. Commissioners' assessment of future policy issues arising from Canada's deepening involvement in the international environment and from pressures for continuing industrial adjustment suggest that Canada will require ongoing reconciliation of diverse regional perspectives. Equally, the federal government must be able to define and promote a national interest which is more than the sum of these regional parts, a national interest which transcends our provincial and regional selves.

Both these roles—responding to regional needs, and defining the national interest—require that the national government have the confidence of citizens throughout the country. Without a nation-wide base, the federal government's claim to be a national government is weakened. Its ability to act in the name of all Canadians will be seriously flawed. In a country as regionally divided as ours, the national government must be "regionally representative".

Regional representation has a number of possible meanings which need to be distinguished. First, in a formal sense, Canadians do enjoy equal representation as individuals, regardless of area of residence. A vote cast in British Columbia, for instance, carries approximately the same weight as one cast in Newfoundland. In the House of Commons, each province's number of seats is, with limited exceptions, proportional to its population. However, Canada's parliamentary system concentrates political power in the governing party and in the Cabinet. It is these institutions, therefore, which must be representative.

At one level, we can think of regional representation in a proportional sense: that is, a province or region will be fairly represented if its weight in the governing councils is proportional to its weight in the country as a whole. A province with 5 per cent of the population should carry 5 per cent of the weight in Cabinet and the caucus of the governing party. In a federal system, however, this proportion may be considered insufficient. We may wish to think of provinces as collectivities which, themselves, deserve equal representation or a weight of influence close to it. This view argues for a

departure from the proportional representation of Canadians as individuals; it suggests, instead, that a province with 5 per cent of the population might require more than 5 per cent of the influence in the national government. In the extreme, it can lead to arguments for equality of representation for provinces as provinces. The striking variations in the populations of Canada's provinces mean that in a system of representation based on majority rule and the equality of individual voters, the electoral power of the citizens of a few larger provinces will swamp that of the smaller provinces. If, therefore, our national institutions are to reflect the federal dimension of Canadian society, the dominance of majority rule based on the equal representation of individuals must be tempered.

There is an inherent tension between the concept of equal representation of individuals and those criteria of representation which suggest that the provinces with the smaller populations should have representation in excess of their proper percentage of the Canadian population. Moves to accommodate the latter notion inevitably encroach on the integrity of equal representation of Canadians as individuals. To give extra representation to smaller provinces is to deny equal representation to the individual citizens of the larger provinces. This dilemma of representation is inherent in federal systems where the provinces or states have unequal populations.

The questions raised by these issues are complex and difficult. The fact remains, however, that in recent years, by any measure of regional representation, our national institutions have been seriously flawed. It is not an exaggeration to speak of an institutional failure which has had profound consequences for the governance of Canada.

What are the dimensions of this failure? Despite the importance of regional differences in Canada, the present design of our national institutions gives remarkably little attention to regional interests. Federal systems around the world typically represent regional interests, not only through the division of powers between central and state or provincial governments, but also through the representation of provinces or states within the national government. In the original U.S. constitution, for example, states had equal representation in the Senate, and Senators were named by state legislatures. In West Germany, the second Chamber, the *Bundesrat*, is made up of ministers of state governments.

In Canada, where we draw on the British tradition of parliamentary government, we have built our federalism primarily on the division of powers. Our nation is, perhaps, unique among federal systems in our relative exclusion of the representation of regional interests from the centre.

Canadians have not, however, entirely ignored the need to represent regional interests in national institutions. One of the major issues in the debates leading to Confederation was the design and role of the Senate. Unlike the House of Commons, which was constituted on the basis of representation by population, the Senate reflected the new Dominion's regional composition by giving equal representation to Ontario, Quebec and the Maritimes. This arrangement was later extended to include the West. The Senate initially enjoyed legislative powers virtually equivalent to those of the House of Commons, but its potential to act as the regional body within the

national government and to temper the effect of majority rule in the House of Commons, was fundamentally compromised by the method of appointment to its ranks, and by the logic of responsible government. The federal Cabinet's power to appoint Senators deprived the appointees of effective links with provincial and regional communities and thus undermined their capacity to represent those communities and to be seen to do so. Responsible government meant that the Cabinet would be responsible to the elected House of Commons, rather than to the appointed Senate. Despite its broad formal powers, the Senate would therefore become a residual body—valuable in providing “sober second thought”, in studying policy problems which had not attracted the attention of the Commons, or in dealing with certain technical non-partisan matters; but it would not become an effective forum for the articulation of regional interests.

The task of accommodating regional interests within the operation of national government would fall, instead, to the political parties, to the Cabinet in particular, and to the House of Commons. In many respects, these arrangements worked well. The model of party government developed in Canada has sometimes been called the “brokerage” model. Each national party would win support across the country: it would represent a coalition of regional interests, wielding considerable strength in party councils through politicians with strong bases of local and provincial support. The parties themselves, therefore, would serve as the arenas within which regional interests would be articulated and compromised. This model carried through into the structure of the Cabinet. From the first days of Confederation, federal Cabinets have been carefully built to ensure representation of all regions and of other interests as well. Our national government also developed the tradition of “regional ministers”: powerful regional leaders within Cabinet, who would both press the interests of their own region and also serve as the government's primary regional spokespersons and dispensers of patronage.

Such a system is predicated on the ability of national parties to win support across the country, and to act as forums for balancing interests. Canadians can no longer have confidence in this process. The capacity of parties—the basic instruments of responsible government in a parliamentary system—to perform their intended role, has been called into question, and with it, the capacity of the central government to act as a national government.

## **The Institutional Failure of the Centre**

The results of the federal election of 1980 tell the story in stark terms. Tables 21-1A and 21-1B illustrate that story. By 1980, our federal parties had become regionally polarized; no party had effective representation from across the country. The victorious Liberal Party won 52 per cent of all the seats in Canada, but they won only two seats in the West, both of them in Manitoba. By contrast, the Liberals won all but one of Quebec's 75 seats. They were thus required to govern with almost no representation from Western Canada. The reverse was true for the Progressive Conservatives in

TABLE 21-1A 1980 General Election Results: Seats and Popular Vote by Province

Province	Total Seats	Progressive Conservative % Vote	Conservative # of Seats	Liberal % Vote	Liberal # of Seats	% Vote	NDP # of Seats
Newfoundland	7	36.0	2	47.0	5	16.7	0
Nova Scotia	11	38.7	6	39.9	5	20.9	0
New Brunswick	10	32.5	3	50.1	7	16.2	0
P.E.I.	4	46.3	2	46.8	2	6.6	0
Quebec	75	12.6	1	68.2	74	9.1	0
Ontario	95	35.5	38	41.9	52	21.9	5
Manitoba	14	37.7	5	28.0	2	33.5	7
Saskatchewan	14	38.9	7	24.2	0	36.3	7
Alberta	21	64.9	21	22.2	0	10.3	0
British Columbia	28	41.5	16	22.2	0	35.3	12
Yukon/Northwest Territories	3	30.6	2	37.2	0	31.5	1
Total	282	32.5	103	44.3	147	19.8	32



**TABLE 21-1B 1984 General Election Results: Seats and Popular Vote by Province**

Province	Total Seats	Progressive Conservative % Vote	Conservative # of Seats	Liberal % Vote	Liberal # of Seats	% Vote	NDP # of Seats
Newfoundland	7	57.6	4	36.4	3	5.8	—
Nova Scotia	11	50.8	9	33.6	2	15.2	—
New Brunswick	10	53.5	9	31.9	1	14.1	—
P.E.I.	4	52.0	3	41.0	1	6.5	—
Quebec	75	50.2	58	35.4	17	8.8	—
Ontario	95	47.6	67	29.9	14	20.8	13
Manitoba	14	43.2	9	21.8	1	27.2	4
Saskatchewan	14	41.7	9	18.2	—	38.4	5
Alberta	21	68.8	21	12.7	—	14.1	—
British Columbia	28	46.7	19	16.4	1	35.0	8
Yukon/Northwest Territories	3	49.1	3	24.3	—	22.2	—
Total	282	50.0	211	28.0	40	18.8	30

*Source:* Canada, Office of the Chief Electoral Officer, *Thirty-Second General Election 1980: Report of the Chief Electoral Officer* (Ottawa: Minister of Supply and Services Canada, 1980), and *Thirty-Third General Election 1984: Report of the Chief Electoral Officer* (Ottawa: Minister of Supply and Services Canada, 1985).

their minority victory of 1979: they won three-quarters of the seats in the West, and only two in Quebec. In each election, one region considered itself excluded *de facto* from the governing councils of the nation. The sharp differences in regional party representation are misleading as an indication of party support. This becomes clear if we look at the proportions of the vote, rather than at seats won: the Liberals were able to gain significant support in the Western provinces; the Conservatives won some support in Quebec. But even at this level, the claim of any party to be truly “national” was not entirely persuasive.

The 1980 election result provided an extreme example of representational anomalies, but by no means a unique one. Region has long been a prime determinant of voting patterns. The Progressive Conservatives had been weak in Quebec since the conscription crisis of the First World War. The Liberals had been relatively weak in the West since the historic realignment of the vote engineered by John Diefenbaker in 1958. Only in Ontario and Atlantic Canada has there been roughly equal competition among the major parties. Governments with truly national mandates – those of 1958, 1968, or 1984, for instance – seemed to be the exception rather than the rule. This regional polarization was especially marked in each of the federal elections that took place between 1972 and 1980. The Progressive Conservative electoral success of 1984 dramatically demonstrates that it is still possible for a party to secure nationwide representation in the House of Commons. It is by no means clear, however, that prolonged periods of regionally imbalanced representation will not recur.

What accounts for the regional polarization of the party system so evident before 1984? Undoubtedly, the chief reason is to be found in the nature of the issues which divided Canadians. It is not so much that the ability of national institutions to bridge divisions declined, but that the river the bridges had to span grew so much wider. Thus, beginning in the 1960s, linguistic divisions revived conflicts deeply rooted in Canadian history. The national government’s need to devote significant effort to language issues and to respond to Quebec’s search for a larger role found relatively little sympathy in the West, where voters believed that federal concentration on Quebec led to the neglect of matters of more direct concern to Westerners. The later emergence of conflicts over energy pricing and development also divided the country regionally: any national government would have extreme difficulty, for example, in reconciling the interests of Ontario and Alberta in the matter of oil pricing and revenues in a period of world energy-price and -supply upheaval. The recent abatement of interest in such issues leaves Commissioners more optimistic about reconstituting a more integrated national politics. Even if this hope can be realized, however, the future will continue to present Canadians with renewed and unforeseen challenges which will pose fundamental regional dilemmas for those seeking national reconciliation.

The growth of governmental responsibility for all forms of well-being increases the difficulty of accommodating divergent regional interests, simply because national governments are held more responsible for economic conditions than they were previously. Again, in a highly regionalized economy, the challenge of successful balancing and integration becomes more

difficult for national institutions to meet. Expanded government also means that Ministers are more deeply involved in their administrative and policy-making roles, and so have less time and energy to devote to their more "representative" duties, including that of regional representation.

Recent change in the "technology" of politics has perhaps reduced incentives for parties to reorganize and thereby to integrate local, regional and national concerns. For example, television has contributed to a concentration of power in the Prime Minister's hands and seems to have detracted from the role of regional party leaders in shaping party policy. Television allows party leaders to communicate directly with voters on a country-wide basis. Similarly, sophisticated public opinion polling reduces the role of party rank and file, Members of Parliament and local leaders in communicating regional opinion to the national leadership. Recent reforms, such as public funding of elections, have also tended to weaken the relationships between national and provincial parties.

The electoral process also contributes to regional polarization of the party system. In 1980, the Liberal party won 22 per cent of the vote in British Columbia, 22 per cent of the vote in Alberta, and 24 per cent in Saskatchewan, yet it did not secure a single seat in the House of Commons. In the same election, the Progressive Conservatives won 13 per cent of the vote in Quebec, but achieved almost equally meagre returns in seats. Our electoral system of awarding the seat to the candidate with the largest number of votes provides no pay-off in terms of representation for votes cast for other candidates. In any given region, one party could have a very slim overall lead in votes, yet win every one of the seats. Unless a party thinks that an effective campaign will secure a significant number of seats, it has little incentive to try to win electoral support in regions where it is weak. Hence weakness is likely to reinforce weakness.

The interaction of our electoral system and voting patterns has resulted in regions being seriously over- or under-represented in governing parties. In the Liberal governments that held office between 1963 and 1984, the Western provinces had an average of only 8.3 per cent of the seats in the governing party. In the same period, Quebec was significantly over-represented in the Liberal caucus. In 1979, when the Progressive Conservatives came into power, the situation was reversed. Details are found in Table 21-2.

Another indication of the regional character of our party system is the sharp distinction between party adherence at the provincial and national levels: few provincial legislatures reproduce the party balances found in the federal government. In 1983, the Liberals, though in power in Ottawa, did not form the government in any province. As Table 21-3 shows, of a total of 698 seats in provincial legislatures, only 130 were Liberal. Moreover, irrespective of whether federal and provincial parties of the same name are simultaneously strong in both arenas, they have become increasingly autonomous: they are often supported by different organizations, are financed by different sources and aim at different goals. In recent years there has been relatively little movement of politicians from the provincial level to the national, or vice versa. Thus, in strong contrast to other federal countries such as Australia, Germany and the United States, and despite extensive

TABLE 21-2 Regional Composition of Government Caucus and House of Commons, Canadian General Elections, 1945-1984

Election	Governing Party	Regional Composition of Government Caucus				Regional Composition of House of Commons			
		West	Ont.	Que.	Alta.	West	Ont.	Que.	Alta.
1945	Liberal	15.2	27.2	43.2	14.4	29.4	33.5	26.5	10.6
1949	Liberal	22.6	29.5	34.7	13.1	27.5	31.7	27.9	13.0
1953	Liberal	15.9	29.4	38.8	15.9	27.2	32.1	28.3	12.5
1957	Prog. Conservative	18.8	54.5	8.0	18.8	27.2	32.1	28.3	12.5
1958	Prog. Conservative	31.7	32.2	24.0	12.0	27.2	32.1	28.3	12.5
1962	Prog. Conservative	42.2	30.2	12.1	15.5	27.2	32.1	28.3	12.5
1963	Liberal	7.8	40.3	36.4	15.5	27.2	32.1	28.3	12.5
1965	Liberal	6.9	38.9	42.7	11.5	27.2	32.1	28.3	12.5
1968	Liberal	18.1	41.3	36.1	4.5	26.5	33.3	28.0	12.1
1972	Liberal	6.4	33.0	51.4	9.2	26.5	33.3	28.0	12.1
1974	Liberal	9.2	39.0	42.6	9.2	26.5	33.3	28.0	12.1
1979	Prog. Conservative	43.4	41.9	1.5	13.2	28.4	33.7	26.6	11.3
1980	Liberal	1.4	35.4	50.3	12.9	28.4	33.7	26.6	11.3
1984	Prog. Conservative	28.9	31.8	27.5	11.8	28.4	33.7	26.6	11.3

Source: Canada, Special Joint Committee of the Senate and of the House of Commons on Senate Reform, *Minutes of Proceedings*, June 28, 1983, p. 10A:3, and information supplied to the Commission.

Note: Rows may not add up to 100% because of rounding.



**TABLE 21-3 Party Membership in Provincial Legislatures, 1983**

Province	Governing Party	Progressive Conservative	Liberal	Other	Total Seats
Newfoundland	Prog. Conservative	43	9	0	52
Nova Scotia	Prog. Conservative	38	12	2	52
P.E.I.	Prog. Conservative	21	11	0	32
New Brunswick	Prog. Conservative	39	18	1	58
Quebec	Parti québécois	0	46	76	122
Ontario	Prog. Conservative	70	33	22	125
Manitoba	New Democrat	23	0	34	57
Saskatchewan	Prog. Conservative	56	0	8	64
Alberta	Prog. Conservative	75	0	4	79
B.C.	Social Credit	0	0	57	57
		359	130	209	698

*Source: Parliamentary Guide, 1984 (Ottawa, 1984).*

interdependence of federal and provincial governments, the Canadian party system does not provide an effective means of bridging and integrating politics at the two levels. This is one reason why executive federalism, sometimes reminiscent of international negotiations, has become the dominant mode of intergovernmental relations.

Canadians have focused their attention on the regional polarization of political parties because it is parties which energize the whole political system. There are additional ways, however, in which the capacities of the institutions of the federal government to represent and accommodate regional interests have been attenuated or less than fully developed.

The first is party discipline. United disciplined parties are essential to the effective operation of party government. However, the ability of individual Members of Parliament to act as spokespersons for their province's interests is sharply limited. As a consequence of party discipline, the MPs regular advocacy of regional interests largely takes the form of participation in party caucuses and in private representations to ministers. It is equally difficult for MPs from the same region, but different parties, to form cross-party alliances to push their regions' interest. This difficulty contrasts with the situation in the United States, where, in a congressional system, weak party discipline gives Representatives and Senators wide scope to act as local representatives and encourages state politicians to build coalitions within national institutions for state interests, rather than to resort to negotiations at the executive level.

Another impediment to regional representation at the national level is the structure of the federal bureaucracy. Most ministries are organized around functions, such as Health and Welfare or Transport, or, like Veterans Affairs or Labour, around clienteles which are not primarily "regional". Of course, there are exceptions. The Department of Regional Economic Expansion (DREE) had a specific regional mandate, and its merger with Industry, Trade and Commerce to form the Department of Regional Industrial Expansion (DRIE) is an attempt to inject a more regional cast into the formation of

economic policy. The Federal Provincial Relations Office, reporting to the Prime Minister, is equally an attempt to ensure that regional and federal-provincial sensitivities are reflected at the highest levels of policy making. Nevertheless, administration in the central bureaucracy has not systematically given attention to the regional dimension of policy.

The prominence of federal Crown corporations and regulatory agencies has increased with the rise of the administrative state. These, too, have been criticized for insufficient sensitivity to regional considerations. These bodies vary significantly in their "independence" of policy direction and management control exercised by the political executive and the central agencies. In general, however, this component of the administrative state is furthest removed from the institutions intended to reconcile regional and national interests in national policy. Although the governing boards of these corporations and agencies are appointed by Cabinet, and although some attention is given to their regional composition, they are largely insulated from the political and policy environment of national government. Many Canadians believe that this autonomy fosters an insensitivity to regional concerns.

Some regulatory agencies, such as the Canadian Transport Commission (CTC), the Canadian Radio-television and Telecommunications Commission (CRTC), and the National Energy Board (NEB), have major regional concerns at the heart of their mandate. However, there are no explicit regional considerations either in the terms of reference of several such agencies or in the selection of the members of regulatory tribunals. While some of these bodies have made extensive efforts to take into account regional interests and to work with their counterpart provincial agencies, this has not been a consistent pattern.

Finally, as Commissioners have noted, the Senate has not been able to provide effective regional representation. The fact that its members are appointed has simply prevented it from playing such a role.

Commissioners conclude, therefore, that Canada's national institutions of government are not well designed to provide regional representation or to encompass the regional diversities of Canadian life within the process of national decision making. The principles and practices of representation by population, Cabinet government, party discipline, and majority rule have not encouraged an adequate response to the regionalism of a federal society. In addition, the limitations of regional representation in national institutions have been accentuated, in recent years, by the regional polarization of the party system.

The consequences of this institutional failure have been severe. They have significantly undermined the ability of the central government to act as the national government in either of the senses presented above: the federal government has become less able to articulate and defend a concept that the national interest transcends regional interests; it has become less able to promote reconciliation of competing regional interests in a fair and balanced manner. It has lost some of its legitimacy, thus experiencing reduction of its capacity to act decisively and effectively.

Public opinion data show that Canadians identify strongly and positively with both national and provincial communities. Indeed, in all provinces except Quebec and Newfoundland, the national community is valued slightly more highly than the provincial. Assessments of the national government are much less positive, however. Many Canadians, when asked about major areas of policy, state their belief that the federal government has the responsibility to act in the national interest. They see that government as having an ever greater effect on their lives.<sup>1</sup> Their views about the level of government which should be responsible for particular functions accord closely with the existing division of powers. Clearly, Canadians value a strong, effective, central government.

At the same time, many Canadians believe that provincial governments affect citizens' lives more significantly than does the federal government. Strong majorities feel themselves "closer" to the provincial governments and consider them more responsive. In the West and, to a lesser extent in the East, large numbers of Canadians believe that their regions have been unfairly treated by national authorities, and that they have been ignored and under-represented in national politics.<sup>2</sup> There is thus a wide gap between what citizens want and expect of their national government and their confidence in its ability to perform its roles fairly and effectively. The challenge inherent in the process of national institutional reform is to close this gap.

If we Canadians do not meet this challenge, the sense of exclusion from the governing councils which was evident in the 1970s and early 1980s will undoubtedly recur. Without strong regional representation in the caucus of each party—especially the party in power—governments' ability to be sensitive to each region is undermined. Correspondingly, their ability to communicate party policy to voters is reduced. In the absence of balanced regional representation, parties and governments run the risk of appearing, not as advocates of the national interest, but of the ill-disguised interests of particular regions. The power of governments to act will be inhibited, not by lack of constitutional authority, but by lack of political authority. Their ability to be fair redistributors of resources will be weakened by the belief held in under-represented regions that their concerns receive inadequate attention. Persistent regional imbalances in national institutions can ultimately strain the very fabric of Confederation.

Moreover, the less able national institutions are in providing forums for regional reconciliation, the more that role will fall to federal-provincial relations. The less credibly the national government can claim to speak for a region, the more credible become the assertions of provincial premiers that they are the appropriate advocates, not only for matters under provincial jurisdiction, but for matters of federal responsibility, too, and the more citizens will turn to their provincial governments. Indeed, the regional polarization of national politics, is related in complex ways to the growth of provincial government assertiveness and federal-provincial conflict.

For all these reasons, Commissioners believe that to reform national institutions so that they better represent the whole country in its regional dimensions is a fundamental requirement. The 1984 election of a new



government with nation-wide support is encouraging: it shows that even with unchanged political institutions, regional polarization is not inevitable, and that through their own internal processes, political parties can overcome the institutional hurdles. Canadians must recognize, however, that these results were not facilitated by our institutions themselves; indeed, they occurred in spite of our institutional arrangements. It is therefore essential to address the larger institutional issues.

## **Directions for the Reform of our National Institutions of Government**

With this analysis in mind, let us set out our goals and explore the ways to achieve them. We wish to ensure that Canada's national institutions of government will, and will be seen to be, representative of, and responsive to, the interests and concerns of all regions and provinces in Canada. We wish to ensure that Canadians in all regions can be confident that through their representatives, they are present in the forums that make critical decisions, the most important of which are the Cabinet and our two Houses of Parliament. These are the most visible sites for representation. While the principles of representation of individuals and the majority rule it produces are the fundamental underpinnings of responsible government, Commissioners believe that in a federal system—and especially in one where the populations of provinces vary so greatly—Canadians must temper the practice of majority rule to accord relatively greater weight to smaller provinces and regions.

In the matter of representation in Parliament, Commissioners wish to emphasize two essential considerations. In terms of the House of Commons, representation as such is not at issue, for all regions and provinces are now represented in that body. The first issue is the representation of regions and provinces within particular parties to a degree more closely related to their electoral support. The second issue is better balanced provincial representation. Here Commissioners view the Senate, our second chamber and the body which, in federal systems, typically bears the responsibility for representing state and provincial communities, as the appropriate site for reform. We do not wish to modify the basic principle of representation by population, on which the House of Commons is properly constituted. On the other hand, we do seek to make the parliamentary caucus of our parties more representative of Canada's regions. Our proposed solution attempts to meet both these concerns by moving to an elected Senate where membership is weighted towards the smaller provinces, and where election is based on proportional representation. This change will simultaneously strengthen the position of the less populous provinces in the joint Senate-House of Commons caucus of the parties, and also contribute, through proportional representation, to a distribution of those caucus members in each party which is closer than the present arrangement to their actual electoral support in the regions.

These modifications must be made in ways consistent with the tenets of responsible government. This means that the Cabinet must remain



responsible to the House of Commons which, itself, must continue to be chosen on the basis of population. It also means that reforms must be consistent with the concept of cohesive, disciplined, political parties. Finally, Commissioners believe that the achievement of a regionally representative central government, or the building into national institutions of the concept of representation by region, must not and need not undermine the ideal of a national government which is responsive to national constituencies and which pursues comprehensive national goals. Regional representation is a precondition of national government, not a substitute for it.

Four possible areas for reform are present. All have been extensively canvassed in recent years, as many groups have sought to strengthen the regional responsiveness of the national government.

### *Reform of Political Parties*

The most visible of the institutional failures described above are the regional polarization of political parties and, with occasional exceptions such as that provided by the election of 1984, the recurring inability of any party to achieve a nation-wide constituency. The first advice, then, to political parties must be to "heal themselves". The onus should be on party leaders and party members to ensure that their parties develop a comprehensive vision of Canada and put forward programs and policies which can command broad support across the country. Electoral strategies which cultivate the interests of some regions over others, or which "write off" whole sections of the country, must be recognized as inimical to the long-term interests of both country and party, even if they should offer short-term electoral advantage. Macdonald, Laurier, King were able to make their parties the "governing party" for extended periods precisely because of their ability to build sustainable national coalitions.

Internal party reform—including, Commissioners believe, the desirable strengthening of links between national and provincial parties—is primarily a matter for the parties themselves to undertake. We have seen in recent years worthwhile and important, though not always successful, efforts by all parties to overcome their regional biases in support and representation. Beyond approving continuing efforts in this direction, however, we do not presume to suggest how parties should order their internal affairs.

The view that national parties are the principal cause of the failure to reconcile national and regional interests ignores the basic fact that even with a nationally representative governing party in power, our parliamentary system does not provide any mechanism by means of which the regional interests of the less populous provinces are able to temper those of more populous provinces. A nationally representative governing party, such as that elected in 1984, is still subject to domination by the elected representatives of the more populous provinces. There are good reasons to doubt, therefore, that even nationally representative governing parties can reconcile national and regional interests to the degree Commissioners consider necessary.

## *The Electoral System*

Party strategies, however, are more than a product of the aspirations of leaders and tactical advisers. They are also shaped by the powerful framework of rules within which the electoral game is carried out. The most important of these is the electoral system.

As we have seen, Canada's "first-past-the-post" electoral system has the effect of dramatically reinforcing the regional disparities in party support at the level of representation. The party caucus is far less regionally representative than is the party's electoral base. Moreover, this situation creates incentives for parties to strengthen their regional bastions, and not to "waste" time and money on a region where they are in a minority.

As a result, there have been a number of recent proposals to reform the electoral system to counter these effects. Most such proposals aim to introduce a greater element of "proportionality" into the system so as to bring a party's percentage of seats more into line with the percentage of votes it is able to win in each province or region. Full proportionality ("PR") on a provincial basis, employing what is known as the "list system", would constitute each province as a single constituency. Voters would cast ballots for a party rather than for an individual candidate. Each party would be allocated a number of seats proportional to the votes it won, and MPs would be drawn from party-compiled lists. There are myriad variations on this fundamental theme, but they need not concern us here.<sup>3</sup>

Proposals for such a comprehensive list system have never achieved wide support in Canada. They would constitute a major departure from our existing system. The direct link between citizen and member, achieved by casting votes for an individual candidate in a single constituency, would be broken. Party organization, which would select candidate lists, would be given more power than most Canadians would wish. Moreover, complete PR would render minority—or perhaps coalition—governments the norm in Canada. In the 25 elections that have been held since 1900, the victorious party has won a majority of the votes cast only seven times. That has happened only twice since 1945: in 1958 and 1984. Full proportional representation would also almost certainly make it easier for new parties to enter the political fray: indeed, there would be considerable possibility of creating a fragmented multi-party system, one which would strongly encourage the emergence of narrowly focused parties, including regional parties. Pure PR would thus ensure a match between seats and votes, but at the cost of denying ourselves the benefits of stable majority governments and of forgoing our traditional relationships with our elected representatives.

Another standard method of proportional representation, which involves multi-member constituencies, could also, if comprehensively applied, produce almost complete proportionality between seats and votes on both a national and a provincial basis. Such a system would preserve the link between voters and candidates, since Canadians would still vote for individual candidates and thus would not contribute to the same enhancement of power of the party organization as does a list system. It would, therefore, be less destructive of our traditions. On the other hand, if comprehensively applied, it, too, would

result in the election of minority governments, an outcome which Commissioners consider undesirable. Accordingly, we do not recommend such a wholesale change of electoral arrangements for the House of Commons. We are attracted, however, to such a system for the Senate, where its effect would not undermine stable majority government, for government would continue to be determined by party majority in the House of Commons.

Such considerations have led most proponents of electoral reform applicable to the House of Commons to suggest that we introduce some elements of proportionality, without going the full distance. The most common suggestion is for some form of "topping-up" mechanism to operate in the House of Commons. The present electoral system would continue to determine the allotment of most of the seats, but after a certain point, the "topping-up" arrangements would come into effect. Each province or region would have a pool of party candidates: if party members, elected directly under the present system, fell short of the number needed to supply representation proportional to the popular vote, additional MPs would be selected from the pool in accordance with clearly formulated rules to supply more proportional representation. West Germany uses such a system, effectively combining single-member districts with full proportional representation in the *Bundestag*.

In Canada, the Pépin-Robarts Task Force on Canadian Unity suggested increasing membership in the House of Commons by "about 60". The additional seats would be awarded to candidates selected from party lists announced before the election and would be distributed on the basis of percentages of the popular vote.<sup>4</sup> In 1980, a report for the Canada West Foundation<sup>5</sup> suggested reducing the number of single constituencies in the Commons from 282 to 255 and adding 75 new MPs, who would be chosen from party lists. Each voter would cast two ballots, one for a constituency candidate and one for a party. On the basis of the latter votes, seats would be allocated proportionally among the parties.

These "partial" PR systems have the virtue of keeping most of the current system intact. Most are also designed to minimize the risk of producing minority governments. By the same token, of course, they can go only part of the way to matching seats and votes. An important cost of such proposals is the addition of considerable complexity to our electoral system. Two types of members would sit in the House of Commons, selected in different ways; and it is not clear what the effects of the change would be on the internal dynamics of the parties and on citizens' expectations.

Commissioners conclude that reform of the electoral system for the House of Commons is not practicable at the present time. Such proposals have received little evident public support. A movement to full PR, whatever the PR system employed, would introduce unpredictable, but potentially far-reaching, changes into our party system and the functioning of responsible government. While it would solve the immediate problem of balancing seats with votes, the cost might be large. "Add-on" systems would have fewer possible consequences for majority government, but they would only partially solve the problem of improving regional representation within the parties in Parliament. In our view, then, electoral reform is a second-best solution.



Commissioners do think, however, that it is time for Canada to explore the potential effects and benefits of proportional representation in Parliament. We shall present our position in the context of Senate reform.

### ***The House of Commons and Regional Representation***

A third area for change, and one closely linked to parties and the electoral system, is the House of Commons. It may be possible, by modifying this element of our system of government, to give greater freedom to individual MPs to act as "regional" spokespersons. Considerable progress has recently been made within all parties to develop a more extensive system of regional groupings within the party caucus, and Commissioners endorse these developments. There are, however, two limitations to the expression of regional interests within the caucus: first, it presumes that the caucus as a whole is regionally representative, a condition which we have seen all too frequently does not obtain. Secondly, this expression takes place in the privacy of the caucus room; when the Members emerge, party discipline imposes itself. This custom means that however vigorous the expressions of regional opinion in caucus, it is not easy for voters to see the process in action.

The proposal most often discussed as a possible resolution of this problem is to lift the strictures imposed by party discipline and allow MPs full rein to act publicly as regional spokespersons. Commissioners' proposal to provide a more important role for parliamentary committees, especially before party positions become fixed, is a step in this direction. We do not wish, however, to go further. Party discipline, we have observed, is deeply entrenched in our parliamentary tradition. Moreover, it is a vital device for ensuring policy coherence and for achieving responsible government. We do not wish to tamper with such a fundamental element of the present system. Again, if MPs came to define themselves primarily as regional advocates, they might indeed express regional interests, but they might not be able to reconcile and accommodate differences. Party leaders, with an eye to national success, are more likely to balance regional interests than are individual MPs with an eye to success in their own constituencies.

The possible reforms Commissioners have reviewed so far are designed to deal with the way in which Canadian voters select members of the House of Commons and, by extension, the Cabinet. Such reforms could ensure that each region has at least some voice in the governing councils, and that each party and the Cabinet have an elective base in every part of the country. We believe, however, that it is essential to address another dimension of the problem: the need to temper majority rule by giving greater weight to smaller areas.

### ***The Senate and Regional Representation***

In most federal systems, the second chamber of the national parliament reflects the federal character of the country. Typically, second chambers allot more influence to smaller regions than their population would warrant: in the United States, for example, each state has two Senators, despite huge variations in population.



What is the potential for Senate reform in Canada? As we have seen, the composition of the Canadian Senate reflects the regional character of our nation. The way in which Senators are selected, however, decisively undercuts the Senate's role as a regional counterweight to a House of Commons where seats are based on population. There are many functions a second chamber can perform and many issues in Senate reform. Commissioners wish, however, to emphasize the potential of Senate reform to bring greater regional responsiveness to central institutions. Commissioners are not alone in this view. Beginning in the mid-1970s, as regional conflict intensified, as the regional polarization of political parties increased, and as provincial governments responded with proposals for decentralization and requests for a greater voice in federal policy making, attention turned more and more to the alternative response of reform at the centre. The Senate was the most frequently chosen vehicle.

In assessing the possibilities and objectives for reform of the Senate, Commissioners have been mindful of a more extreme option which some critics have put forward from time to time: abolition of the second chamber. In our consultations, one of the provincial premiers proposed abolition. In the winter of 1984–85, when the Senate took, some thought, undue time to consider a money bill, there were new and serious cries for abolition. Commissioners understand this view and believe it to be based on two quite valid criticisms: that the present appointed Senate is illegitimate in the modern sense of "representation", and that it is ineffective in its duties of regional representation. For these reasons, we do not favour retaining the *status quo* for the Senate.

This Commission proposes radical reform of the Senate, but not its abolition. We take this position for three reasons. First, our priority is to promote Parliament as the principal forum for public debate in Canada; to abolish the Senate would be a move in the wrong direction. Secondly, we wish to see the reconciliation of national and regional interests in Parliament, and we believe that the Senate can make a major contribution to that end. Thirdly, although there have been endless suggestions for reform of the Senate and a good deal of public support for reform, political and institutional self-interest has prevented the public will from being done. We think that this situation may be changing. We are of the opinion that there is renewed interest on the part of all the institutions concerned. Thus we are persuaded that, practically speaking, serious Senate reform is no longer a "non-starter", and we are convinced that for a more effective Parliament, it is essential.

### *Issues in Senate Reform*

The design of a reformed Senate depends on the purposes that we wish it to serve. To determine those purposes, we must answer several questions. What should be the basis of representation? How should we select members? What powers should the Senate have? What should be its relation to political parties and the House of Commons?

Commissioners wish to incorporate the concept and practice of regional representation more clearly within the structure of national institutions. The Senate is the institution that should embody the federalist principle at the centre. The House of Commons will continue to represent individuals on the basis of population. Should each province, then, have equal representation in the Senate? We do not go so far: our objective is simply to establish a greater weight of influence for less populous regions relative to the more populous. In intergovernmental relations, provincial governments are, and should be, equal, a state which reflects their juridical equality and their responsibility for governing their respective provinces. Yet our institutional arrangements also recognize differences among the provinces to serve certain purposes. For some constitutional amendments, for example, size and numbers of provinces are combined to establish a voting formula. In our national government, where representation by region takes place within a single jurisdiction, a comparable adjustment is also appropriate. We wish to temper, not overrule, representation by population.

The Senate is part of Parliament, and Parliament is pre-eminently a representative body. For that reason, and because a reformed Senate must build on Canada's practice of party government, we join those who have argued that the Senate should be an elected body. Appointment of members by the national executive is inappropriate in our democracy. Numerous proposals for reform or replacement of the Senate have suggested an alternative method of appointment, by provincial governments or legislatures. The Senate would become a House of the Provinces or a Council of the Federation. According to some proposals, Senators would be direct delegates of provinces, casting their votes as a bloc under instruction from provincial governments. Provincial ministers might head delegations. The model for such proposals is the West German second chamber, the *Bundesrat*. Under this model, the Senate might become the chief arena for the conduct of intergovernmental relations.

Commissioners reject this model on the ground that it is inconsistent with the democratic principle mentioned above. It would mix oil and water in that it would inject into our representative parliamentary process members of provincial governments with executive responsibilities. We must keep separate the executive function and the representative function of the legislature. Moreover, such a model represents an erroneous view of Canadian federalism. It supposes that provincial governments are appropriate spokespersons for regional interests in the national arena. On the contrary, federalism implies that provincial governments are the instruments of their populations for provincial purposes, and that federal MPs and Senators are equally provincial representatives for national purposes. Senators, therefore, should certainly represent provinces, but not provincial governments. We should not convert Parliament into an instrument for managing the interdependence of different orders of government.

If Senators are to represent the citizens of their various regions, those citizens must choose Senators directly. The only legitimate way to do this in a democracy is by means of the franchise. But how is this to be done? One possibility is to apply the first-past-the-post system used for House of

Commons elections. There would be many fewer constituencies, as the Senate would be smaller than the House of Commons. The constituencies, of course, would be correspondingly larger. In this way, election of Senators could achieve Commissioners' objective of giving greater influence to small regions, but it would not guarantee more regionally representative caucuses. The distortions of the current electoral system would reappear in the Senate. Indeed, the larger the constituency, the more potential there is for distortion. Thus representation in the Senate would likely be even more unbalanced than it is in the House of Commons. A Senate whose members were elected by simple pluralities in single-member constituencies would not represent a useful change; such a reform might even be a counterproductive move.

For these reasons Commissioners suggest election of Senators by proportional representation. This method is likely to supply the governing party with elected representatives (MPs or Senators) from all regions for its parliamentary caucus. The governing party would have to be more responsive to representatives of the less populous provinces because these would be given extra weighting in a reformed Senate to enable them to secure passage of legislation. Regional interests would not override party interests, but they would most certainly temper them. A Senate elected by proportional representation would usually permit the governing party to constitute a Cabinet that included representatives from all regions because it would contain men and women from all regions capable of assuming Cabinet positions.

Commissioners recommend that Senators be elected in six-member constituencies. This number is large enough to realize the intended effects of proportional representation, yet allows for some recognition of the regions within provinces. On this basis, given a Senate composed of 144 members, Prince Edward Island would have one six-member constituency, Quebec and Ontario would have four such constituencies, and all other provinces would have two six-member constituencies. Yukon and the Northwest Territories together would share six Senators. The design of these constituencies, whether single or multi-member, would have to await division of the Northwest Territories.

Commissioners believe that a Senate reformed along the lines we have proposed would implement the federalist principle in our national institutions. It would improve regional representation in Parliament, and thus in the Cabinet and in the caucuses of all parties. To elect the Senate as we have recommended can strengthen democratic processes and enhance the position of Parliament in relation to the executive. (See Table 21-4.)

Adoption of proportional representation for the Senate would also provide a useful test of that system more generally. It could have some important consequences. In the long run, citizens might come to see Senators elected by proportional representation as more legitimate than MPs elected by the first-past-the-post method, and this view might have interesting implications for relations between the two Houses. Under proportional representation, the governing party would rarely have a majority of Senate seats, though it is highly unlikely, either, that a non-governing party would have a majority in the Senate. Simultaneous elections of both Houses and party organization of



**TABLE 21-4 Projected Distribution of Senate Seats (144)  
under Proportional Representation as Determined  
by 1984 Election Results**

Province	Progressive Conservative		Liberal		NDP	
	% Vote	No. of Seats	% Vote	No. of Seats	% Vote	No. of Seats
Newfoundland	57.6	7	36.4	4	5.8	1
Nova Scotia	50.8	6	33.6	4	15.2	2
New Brunswick	53.5	6	31.9	4	14.1	2
Prince Edward Island	52.0	3	41.0	3	6.5	0
Quebec	50.2	13	35.4	9	8.8	2
Ontario	47.6	12	29.9	7	20.8	5
Manitoba	43.2	6	21.8	3	27.2	3
Saskatchewan	41.7	5	18.2	2	38.4	5
Alberta	68.8	9	12.7	1	14.1	2
British Columbia	46.7	6	16.4	2	35.0	4
N.W.T. and Yukon <sup>a</sup>						
Totals	50.0	73	28.0	39	18.8	26

*Source:* Canada, Office of the Chief Electoral Officer, *Thirty-Third General Election 1984: Report of the Chief Electoral Officer* (Ottawa: Minister of Supply and Services Canada, 1985).

*Note:* Table 21-4 shows the provincial distribution of the 144 Senate seats in the 1984 election, assuming the use of proportional representation on a province-wide basis, if voters had expressed the same party preferences for Senate candidates as for House of Commons candidates.

- a. The distribution of the six seats allocated to the Northwest Territories and Yukon has not been projected because the issues of choosing an electoral system and dividing the Northwest Territories remain to be resolved.

elections should reduce the danger of such an impasse and of the paralysis that might follow.

Party organization represents an important principle. A number of proposals have sought to insulate Senate elections from party politics, and from the allegedly short-run electoral considerations that dominate the House of Commons. They would do so by eliminating party labels and having candidates run as individuals, by separating Commons and Senate elections, by instituting lengthy terms for Senators, or by holding elections for the Upper House on fixed dates. The Joint Committee on Senate Reform,<sup>6</sup> for example, called for nine-year, non-renewable terms, in order to give Senators credibility as regional representatives and "a significant degree of independence of party". Commissioners believe, on the contrary, that it is undesirable to attempt to compartmentalize and separate the Senate and the House of Commons in this way. Party is the organizing device for political representation in Canada, and Canadians should not deny that fact. Moreover, it is our aim to ensure, through the Senate, regional representation in the caucuses of



all national parties. A reformed Senate must strengthen party government, not undermine it.

Except in the passage of money bills, the powers of the present Senate are formally co-equal with those of the House of Commons. Restraints on the Senate's exercise of its powers are political and conventional: the House of Commons is the democratic body, and the Cabinet is responsible to it. Giving the Senate an electoral base necessitates rethinking its powers. How much authority does the Senate need to achieve the goals we have set? Our aim is to ensure regional sensitivity and to temper majority rule. It is not to override the vital principle of responsible government.

An elected Senate which actually used the powers of the present Senate to initiate, veto and amend legislation could indeed complicate responsible government. Moreover, a government with a majority in the Commons might seldom have a Senate majority. Commissioners believe, accordingly, that with the exception noted below, the Senate should have a suspensive veto of six months on all ordinary legislation. This period should prove ample for it to consider fully the regional viewpoint and give pause to unrestrained majorities in the House of Commons. Yet it would be clear that ultimately, the will of the majority in the House of Commons would prevail.

Other supporters of a suspensive veto power for the Senate have explored variations in the procedures for its application. It has been suggested, for example, that a bill passed by the House of Commons and subsequently rejected by the Senate should require a second adoption by the House of Commons before it could be presented to the Governor General.<sup>7</sup> Detailed procedures relating to timing, to the use of special majorities and to different classes of legislation will require careful attention. The objective must be to structure a balance between the principles of regional representation in a reformed Senate and of majority power in the House of Commons, without producing deadlock or otherwise rendering the parliamentary process too unwieldy.

To this point, Commissioners have emphasized the Senate's role as a regional or provincial body. We also believe that a reformed Senate can contribute to representing and reconciling the interests of French- and English-speaking Canadians. The Senate can be both a regionalist and a dualist chamber. Thus, we propose that on matters of special linguistic significance, passage of a law would require the support of both a majority of the Senate and a majority of francophone members. The Senate veto in such matters would be absolute, not simply suspensive.

Commissioners believe that an elected Senate such as we have described would enhance the representative element of the national government by ensuring strong representation from all regions in the caucus of each party and in the Cabinet. We believe that it would strengthen the voice of the smaller provinces and give their people greater confidence that national majorities in government would pay special attention to their interests. Moreover, it would do so by strengthening, rather than weakening, responsible party government.

In analysing the potential role of a reformed Senate, Commissioners have emphasized the regional dimension of Canadian life, and the capacity of

national institutions to represent that dimension and blend it with other concerns in the making of policy. With that perspective in mind, we have concentrated on regional concerns because, as our recent experience eloquently testifies, national institutions have had great weaknesses in that respect. We now wish, however, to pause and remind Canadians that we take for granted that the more regionally elected Senate we propose is to do more than bring a regional focus to its appraisal of policy. The Senate should continue to perform its useful role of applying basic "sober second thought" to all legislation and of generally improving legislation. There is an indispensable role for a second chamber in the national parliament, independent of regional representation. The conduct of inquiries, the control of the modern administrative state, the public airing of issues and other functions will continue to be responsibilities of a reformed Senate. Commissioners do not wish these responsibilities to be forgotten in the concentration on regional concerns, where a reformed Senate has much to offer.

### **Regional Representation and Responsiveness in the Executive Branch of Government**

Commissioners believe that we Canadians must also consider additional measures to strengthen the political legitimacy of the central government. A final critical area for improvement is the sensitivity of the executive branch to regional concerns.

Commissioners wish to look first at the Cabinet and, specifically, at the function of regional ministers. The influence of certain powerful regional ministers has been evident in relation to such highly visible government activities as grants, contracts, projects and subsidies awarded on a regional basis. But government secrecy and the complexity of the administrative state have limited clear understanding of the regional minister's role.

The status of regional ministers has varied, depending on a number of factors, including the leadership style and political strengths of the Prime Minister. In recent years, moreover, regional ministers have had to cope not only with increasingly complex Cabinet decision-making processes, but also with a cumbersome administrative system. In addition, the functions of the regional minister have extended into federal-provincial relations. Regional ministers have often found themselves constrained both by the general environment of federal-provincial relations and by the elaborate machinery that manages and controls those relations.

The implications of these changes for regional representation in Cabinet decision making have been two-fold. First, regional ministers, who in addition to discharging their portfolio responsibilities articulate the interests of their region in Cabinet deliberations, have a more difficult task because of the increased complexity of these structures and processes. They cannot intervene as easily as they used to do, to press the case for their regions or to operate their portfolios in the service of their regions. Secondly, the composition of the Cabinet's committee structure has generally taken into account the requirement of regional representation that applies to the Cabinet itself. Recently, too, the Cabinet Committee for Economic Development Policy

became the Cabinet Committee for Economic and Regional Development. From 1982 to 1984, a central agency, the Ministry of State for Economic and Regional Development (MSERD), served this committee; the Ministry was unique among the central agencies in that it had a series of regional offices in each province, headed by a senior official. These institutional features enhanced regional responsiveness in Cabinet decision making.

It is surprising that the Cabinet has not done more to strengthen administrative support for regional ministers. As the demise of the short-lived MSERD suggests, regional representation is an essentially political function which ministers perform primarily through administrative inputs and policy analysis. Representation of regional interests in the Cabinet decision-making process is part of Canadian politics, but the institutional design of our decision-making systems has not actively promoted this element. We wish to strengthen this dimension of our institutional arrangements.

In a few notable instances, ministers have used their departmental authority to promote regional interests, despite departmental organizations that largely ignore regional policy development and exclude policy planning and development from their regional offices. With few exceptions, policy planning and development take place at departmental headquarters, while regional offices focus on program delivery and line operations. When Ministers promote regional interests, the result is often partisan. This political intervention seldom takes place within well-designed national policies promoting regional development. This situation will remain the norm until line departments stress regional policy planning and development at both central and regional offices.

Organizational arrangements to facilitate representation of regional interests have emerged only slowly within the executive branch and have met with opposition from a number of quarters. Not surprisingly, those hesitant about, or even opposed to, the promotion of regional interests in the development of national policies become more numerous as one moves closer to the heart of central Canada and the national capital. Yet most areas of public policy affect regional interests directly or indirectly. The appointment of the Cabinet Committee on Economic and Regional Development in 1982 constituted the most explicit acknowledgement of this reality to date. This committee is one of the most important within the Cabinet. It represents the culmination of a quarter-century of evolution that has seen the executive give increased organizational attention to the regional dimension of national policy. For the first time, the Cabinet officially acknowledged that all ministers, departments and agencies of economic development were responsible for regional development.

The record of the last three decades is one of slow but steady progress, as the executive branch has made changes in the administrative structures and processes of the national government. Three conclusions arising from this experience stand out as critical.

First, to be regionally responsible a national organization must establish a unit that focuses on the regional dimension of its policies and programs. Without this focus, the organization will respond to regional concerns only at the insistence of its minister, the Prime Minister, the Cabinet or interest



groups. In those cases, moreover, the outside pressure will limit its capacity to react as required. Secondly, to be regionally responsive, most organizations must carry out some decentralized policy planning in regional offices. Notwithstanding the ease with which we can transport information and personnel, planning based on regional views, needs and opportunities requires personnel who are active in the field full time. Thirdly, the Cabinet must decentralize the central agency that supports its decision making on regional development, in order to facilitate co-ordination in the regions among departmental and agency officials involved in policy planning.

Lessons learned over the past quarter-century include appreciation of the degree to which organizations will resist restructuring for purposes that their personnel consider external to their central mission. Only rarely have departments and agencies of economic development responded to the objectives of regional development by way of the organizational changes noted above. Too often they regard regional development as nothing more than a political imperative to which they must give lip-service to the degree on which Ministers insist. Many considered the Department of Regional Economic Expansion (DREE) a nuisance and the Ministry of State for Economic and Regional Development (MSERD) a threat to the sectorally oriented missions of other departments.

Resistance to regional responsibilities has lessened the capacity of the executive branch to be as regionally responsive as it should be and has thus undermined the effectiveness of political representation of regional interests in the Cabinet. The policy effectiveness of the national government has suffered because ministers must rely primarily on their political officials and their political contacts, who possess neither the expertise nor the experience of administrative officials. Accordingly, it is essential to overcome this resistance to regional responsibility.

Reform of the Senate along the lines Commissioners recommend should affect the priority attached to regional representation and responsiveness within the executive branch of the national government. The ways in which the Prime Minister and the Cabinet organize the executive branch will, of course, depend on other factors as well. Nonetheless, we have concluded that the Cabinet should give more attention to the organizational capacity of the executive branch to respond to regional interests.

First, Commissioners recommend that the central agencies be so structured as to secure more accurate information on regional dimensions for the Cabinet to use in making policy decisions. This requires regional offices like those established in 1982, with the reorganization of the central agency that served the Cabinet Committee on Economic and Regional Development. These offices still exist, but outside the central administrative apparatus that serves the Prime Minister and the Cabinet. We think it desirable to re-establish such offices within the Cabinet secretariat.

Secondly, Commissioners recommend increased decentralization of departments and agencies for the purposes of policy planning and development. Ministers with sectorally organized departments must incorporate the regional dimension fully in departmental planning and policy development.



This step, in turn, requires the inclusion of regional officials in departmental decision making.

These two recommendations are mutually supportive. Only decentralized policy planning and development can produce regional information adequate to support Cabinet decision making. At the same time, regional officials in line departments and agencies must be aware of the Cabinet's priorities and decisions, and this requires continual interaction with other departments and agencies in a region, as well as with the region's central agency officials.

Thirdly, Commissioners recommend that a reformed elected Senate establish a committee to approve all appointments of the heads of major Crown corporations and all the members of major regulatory agencies. Some significance must be attached to appointees' region of origin. Those nominated by the Prime Minister and the Cabinet should be subject to parliamentary scrutiny because these boards exercise powers delegated by Parliament. In our view, a reformed Senate with strengthened regional representation is the appropriate chamber of Parliament to undertake this scrutiny.

Although some Canadians would argue that Senate approval would do little to improve our present practice, Commissioners believe that it would help to achieve better regional representation on these bodies. It would promote greater public confidence that the appointments meet the regional criterion. Such a public process would force the Cabinet to give greater attention to the merits of those whom they nominate because nominees would be subject to public scrutiny. This open process should make Crown corporations and regulatory agencies more sensitive to regional considerations in conducting their operations and coming to their decisions.

## Notes

1. Richard Johnston, *Public Opinion and Public Policy in Canada*, vol. 35, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).
2. *Ibid.*
3. For more detail, see William Irvine, "A Review and Evaluation of Electoral System Reform Proposals", in *Institutional Reforms for Representative Government*, vol. 38, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).
4. Donald V. Smiley and Ronald L. Watts, *The Reform of Federal Institutions*, vol. 39, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).
5. David Elton and Roger Gibbons, *Electoral Reform: The Need Is Pressing, the Time Is Now* (Calgary: Canada West Foundation, 1980).
6. Canada, Special Joint Committee of the Senate and of the House of Commons on Senate Reform, *Report* (Ottawa: Queen's Printer, 1984).
7. *Ibid.*, p. 30.





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# Federalism and the Economic Union

## Introduction

Two themes dominated the preceding review of national institutions: the need to strengthen responsible representative government in the face of the growth of the administrative state and the need to reform the institutions of national government to reflect provincial and regional diversities more fully. These themes are central to Commissioners' analysis of the institutions of federalism and to our assessment of the Canadian economic union. We must ensure that federalism—the institutional framework that assigns authority to two orders of government—works democratically and promotes reconciliation of national and regional interests.

“Government” in Canada is the result of the activities of both federal and provincial orders, and of their interactions. Canadians thus continue to ask how well federalism serves our economic and social needs. The functional approach taken by Commissioners to the reform of federalism and to the concept of the economic union reflects our mandate: “To respond to the challenges of rapid national and international change . . . and to secure sustained economic and social progress, it will be of importance to achieve . . . greater support for the Canadian economic union”. We are to consider “the integrity of the Canadian economic union as it relates to the unity of Canada and the ability of all Canadians to participate in increased economic prosperity”. We are asked to suggest institutional changes to “encourage the further development of the Canadian economic union.”

These instructions emphasize the breadth of the concept of economic union. At its narrowest, that concept implies a concern to reduce or eliminate barriers or impediments to the ability of Canadians to live, work, trade and invest anywhere in the country. Indeed, a major reason for appointing this Commission was a concern that policies of both levels of government were eroding this aspect of the economic union and reducing the efficiency of the

national economy. In a federal country, however, “economic union” has other meanings as well. The expression implies active policies to foster and facilitate trade and exchange among Canadians. It implies common economic and social policies, and the building of institutions to develop them. It also implies the need for institutional mechanisms to ensure that the benefits that flow from the economic union are distributed throughout the country. Moreover, it requires that governments co-ordinate their use of public revenues and the performance of their responsibilities so as to meet the needs of Canadians. The concept of the economic union includes all these dimensions: all the relationships relevant to the economic well-being of Canadians and to the maintenance of a strong, competitive economy.

The economic union is also a political concept that captures something vital about Canadian citizenship and the existence of our country. If we were to calculate the benefits in terms only of efficiency and incomes, we would have less concern with distribution and sharing, and little desire to ensure the use of some common standards across the country. We would be content with free movement of goods and worry little about the rights of citizens to live and work in locations of their choice. Economic union within Canada would be like economic union with any other country. Somewhere, sometime, a purely economic calculus would no doubt lead some Canadians to choose to “go it alone”. The objective of building a Canadian economic union has meaning because we are first a national political community. Threats to the economic union are threats to the national community because they erode the ties of affinity and interest that bind Canadians together.

Commissioners have organized this examination of federalism and the economic union around four key concerns:

- Has federalism balkanized or fragmented the Canadian economic union? Have internal barriers to trade reduced efficiency or lowered incomes? As many critics have suggested, are the costs of existing barriers to the Canadian economic union too high?
- Does federalism frustrate or enhance our ability to manage the economy? Do the complexities of federalism account for some of the weaknesses in current policies? Is federalism likely to inhibit achievement of some of the economic goals that this Commission has set out?
- Has the practice of Canadian federalism resulted in an unfair sharing of the benefits and costs of participation in Confederation? Sharing has always been fundamental to our sense of Canadianism and to the success of the Confederation arrangements. The federation could not long survive if citizens in different regions felt the rules were systematically stacked against them, and that policy was systematically biased. Yet perceptions of unfairness among regions run through Canadian history, and these perceptions persist.
- Do joint use of the common financial base and the system of transfers between governments respond to the needs of taxpayers and the need for flexibility?

Federalism has proved a flexible, adaptable instrument in the past and is likely to do so again. We require, not dramatic transformation, but ordered

change rooted in specific needs and objectives, and sensitive to the underlying principles of Canadian federalism.

How best, then, are we to reconcile intergovernmental co-ordination and management of intergovernmental conflict with the norms of democracy and accountability? Institutions – the division of powers, the amending process, the mechanisms of intergovernmental relations – are vital. If they can respond to citizens' needs, manage conflicting interests and facilitate decisive action, we Canadians can have confidence in our ability to face the future.

In this chapter Commissioners look at the instruments through which Canadians can balance often-conflicting values and concerns: federalism, parliamentary government and the Charter of Rights; national versus provincial majorities; aggregate national income versus regional development; freedom of movement versus community preservation; uniformity and diversity; and others. Such balancing is the essential task of all our institutions, national and federal.

Numerous forces at work today make a reconsideration of federalism especially desirable. Increased international competition necessitates reassessment of our domestic institutions to make sure that they facilitate rather than frustrate successful adaptation. The emergence of new demands and new social groups, and the call for more effective mechanisms for consultation between governments and citizens pose additional challenges. We should take stock of the cumulative effects of incremental changes in federal institutions since the end of the Second World War, and make sure that these institutions can serve us in future.

## **Maintaining the Economic Union: The Problem of Internal Barriers**

The sections which follow assess the Canadian economic union. Commissioners look first at some statistical evidence concerning the patterns of trade within Canada in order to provide an overview of the country as an economic union. This is an essential preliminary to describing and analysing the character and effects of internal barriers. Next we identify policies which might distort trade and the flow of labour and capital. We then examine the cost of these distortions and speculate on some of the economic and political consequences. And finally, we draw conclusions about the significance of internal barriers for Canada's economic union and propose a number of institutional reforms to reduce the costs and promote greater internal integration.

### **Trade and Factor Flows**

Table 22-1 provides an overview of Canadian production and trade. Total traded output in 1979, the most recent year for which detailed information is available on interprovincial<sup>1</sup> trade, exports and sales within the provinces, was nearly \$444 billion. Slightly more than half of this production consisted of services. Manufactured products made up another third, with primary goods

TABLE 22-1 Destination of Goods and Services, Canada, 1979

	('000 \$ and per cent)					
	Total	Within Province		Rest of Canada		Exports
	Value	Per Cent of Total Output	Value	Per Cent	Value	Per Cent
Primary	44 036 860	10	19 950 220	45	10 069 840	23
Manufacturing	158 804 590	36	69 652 570	44	43 796 010	28
Total goods	202 841 450	46	89 602 790	44	53 865 850	27
Services	241 029 450	54	198 478 140	82	33 598 080	14
Total	443 870 900	100	288 080 930	65	87 463 930	20
					68 326 040	15

Source: Statistics Canada, Input-Output Division, Interprovincial Trade Flow Data, 1979.



constituting only 10 per cent. The first lesson to be learned from these data is the striking importance of the local provincial market. Nearly two-thirds of everything produced in Canada in 1979 was first sold in the province in which it was produced. One-fifth of total output moved across provincial boundaries within Canada, while 15 per cent was marketed abroad.

When we exclude trade in services, the picture changes. Since many services can only be traded or provided locally, the elimination of the service category from the statistical picture reveals more clearly the significance of trade, within Canada and abroad, for provincially produced goods and resources. Only 44 per cent of total output of goods was initially marketed within the province of origin. More than one-quarter of goods—nearly \$54 billion-worth in 1979—was shipped interprovincially. This figure is only slightly less than the \$59 billion-worth of exports recorded in that year. For the Canadian economy as a whole, therefore, interprovincial trade is about as important as foreign trade. In comparing broad commodity groups, we note that primary products tend to be aimed more for the export market than for other provinces (32% as compared to 23%), while producers of manufactures rely equally (28%) on sales to other provinces and to the export market.

These are general observations. There are many primary products, mineral fuels among them, for which markets outside the province dominate, and others, such as dairy products, that are produced almost exclusively for local markets. Similarly, there are some manufactured products that find their main markets outside Canada, and some services that trade extensively across regions.

Patterns of trade among provinces, which are summarized, for 1979, in Table 22-2, are especially important to understanding the economic union and the policy issues associated with it. As might be expected, the two central provinces dominated trade. Ontario accounted for nearly 40 per cent of all interregional shipments in Canada, and Quebec for another 25 per cent. Most of the total for each province consisted of shipments to the other, a factor which made their trade dominance even more significant. Alberta contributed 17 per cent of interprovincial Canadian trade in goods, largely in the form of energy. No other province recorded more than 6 per cent of the interprovincial total. Given existing trade patterns, barriers to interprovincial trade within Canada could therefore most significantly affect interprovincial trade between Ontario and Quebec. In comparison, if almost any other bilateral trade between provinces—except for oil and gas—were to be halted altogether, the cessation would not noticeably affect national totals.

Aggregate trade flows do not tell the entire story, however. It is equally necessary to assess the importance of participation in the economic union to the economic well-being of each province. If, for example, a small province is highly dependent on sales to other regions, and if these transactions are threatened by internal barriers to trade, that province has every reason to be concerned even if, in total, the economic impact will appear to be small. We must therefore look at the economic union from the viewpoint of each member.

The significance of provincial, national, and international markets varies for each province. Table 22-2 shows the destination of goods by province and

TABLE 22-2 Destination of Goods by Province 1979

	('000 \$ and per cent)					
	Total		Within Province		Rest of Canada	
	Value	Per Cent	Value	Per Cent	Value	Per Cent
Newfoundland	2 312 630	100	638 090	28	495 260	21
P.E.I.	367 170	100	147 800	40	143 120	39
Nova Scotia	4 114 910	100	1 650 180	40	1 400 920	34
New Brunswick	3 923 590	100	1 148 770	29	1 116 090	29
Quebec	45 969 900	100	21 922 850	48	13 115 810	28
Ontario	84 700 930	100	40 001 260	47	20 920 730	25
Manitoba	6 149 200	100	2 142 550	35	2 503 720	41
Saskatchewan	6 644 170	100	1 681 270	25	1 900 400	29
Alberta	26 259 410	100	10 186 630	39	9 056 800	34
British Columbia	21 742 550	100	9 882 080	45	3 158 520	15
Yukon & N.W.T.	656 990	100	201 310	31	54 480	8
Canada	202 841 450	100	89 602 780	44	53 865 860	27
					59 372 790	29

Source: Statistics Canada, Input-Output Division, Interprovincial Trade Flow Data, 1979.

Note: Totals may not add to a hundred because of rounding.

territory. For six of the provinces, the provincial market is more important than interprovincial sales or exports: Quebec (48%), Ontario (47%), B.C. (45%), P.E.I. (40%), Nova Scotia (40%), and Alberta (39%). Three provinces, Newfoundland, New Brunswick and Saskatchewan, as well as the northern territories, find their largest markets outside Canada. The export market is the destination for 51 per cent of Newfoundlands's output of goods. For New Brunswick and Saskatchewan, exports account for 42 and 46 per cent respectively of goods sold. Only Manitoba's sales to other provinces (41%) are greater than sales within the province (35%) and sales abroad (24%). The importance of secondary markets varies significantly for each province.

For the purpose of considering the secondary markets, we turn first to those provinces for which the internal provincial market is the largest of the three destinations for goods. In Ontario and Quebec, where about half of the output is first sold within the province, the remainder is evenly divided between shipments to other provinces and exports (25% and 28%, and 28% and 24% respectively). British Columbia's exports (40%) are nearly as important as its intraprovincial sales (45%), and its shipments to other Canadian provinces and the northern territories (15%) are relatively small. For the three other provinces in this group, Prince Edward Island, Nova Scotia and Alberta, British Columbia's pattern for secondary markets is reversed: the interprovincial Canadian market is the destination for more provincially produced goods than the export market.

For the three provinces for which the largest markets are outside Canada, again, the relative importance of the secondary markets is varied. For New Brunswick and Saskatchewan, intraprovincial markets and shipments to other Canadian regions are approximately equal in importance. Newfoundland's intraprovincial markets (absorbing 28% of production) are more significant than markets in the rest of Canada (21%). This pattern is even stronger for the northern territories, where internal sales (31%) are significantly more important than shipments to the rest of Canada (8%).

Only for Manitoba and Saskatchewan do sales to other provinces exceed sales within the province, although Saskatchewan is significantly more export oriented than Manitoba. In this one sense then, Manitoba's economy seems to be the most directly bound up with the future of the Canadian economic union. Yet intraprovincial sales (29%) and interprovincial trade (29%) are of equal significance for New Brunswick. Prince Edward Island, Alberta and Nova Scotia depend almost as much, relatively speaking, on sales to other provinces as they do on their internal provincial markets, so one should probably group these provinces with Manitoba as well.

An alternative view of the Canadian economic union may be formed by examining a province's sources of supply of goods and services. Table 22-3, which details the source of goods by province for 1979, distinguishes among internal supply, purchases from other provinces, and imports from abroad. With some interesting differences from production of goods, similar patterns are apparent. Ontario and Quebec dominate in an absolute sense as they did in relation to the destination analysis shown in Table 22-2, although not by as wide a margin. Together these two provinces receive half of all goods shipped

**TABLE 22-3 Source of Goods by Province, 1979**

	('000 \$ and per cent)					
	Total		Within Province		Rest of Canada	
	Value	Per Cent	Value	Per Cent	Value	Per Cent
Newfoundland	2 576 130	100	638 090	25	1 526 240	59
P.E.I.	601 020	100	147 810	25	391 900	65
Nova Scotia	5 786 830	100	1 650 170	29	2 156 050	37
New Brunswick	5 109 040	100	1 148 780	22	2 197 990	43
Quebec	50 593 240	100	21 922 860	43	12 564 480	25
Ontario	87 302 180	100	40 001 260	46	14 797 690	17
Manitoba	7 092 600	100	2 142 540	30	3 214 940	45
Saskatchewan	6 400 660	100	1 681 270	26	3 339 230	52
Alberta	21 555 330	100	10 186 620	47	7 047 430	33
British Columbia	22 085 430	100	9 882 070	45	6 238 300	28
Yukon & N.W.T.	664 730	100	201 310	30	391 640	59
Canada	209 767 190	100	89 602 780	43	53 865 850	26
					66 298 620	32

Source: Statistics Canada, Input-Output Division, Interprovincial Trade Flow Data, 1979.

Note: Totals may not add to a hundred because of rounding.



interprovincially, as compared to the 63 per cent of goods they ship out. Alberta and British Columbia account for another one-quarter of such sales. The rest is distributed among the remaining, smaller economies.

While nationally, 32 per cent of goods were imported, international suppliers are not the principal source of goods for any province. Ontario, Quebec, British Columbia and Alberta supplied the largest portion of their goods locally. The other six provinces and the northern territories purchased more goods from other parts of Canada than from abroad or from suppliers in other provinces.

The preceding information can be combined to calculate interprovincial and international trade balances for each province. The results of the calculations for 1979 are reported for goods alone in Table 22-4, and for goods and services combined in Table 22-5. In these tables we can more clearly see the implications of what the Canadian economic union means for each province. The tables also provide some insight into the debates over how "fair" Confederation is to individual regions.

A trade deficit, denoted in the tables by means of a minus sign, indicates that a province is consuming more than it is producing; that is, its consumption exceeds its output. In the long-run, this deficit must be off-set by transfers of funds from other parts of the country. Conversely, an overall trade surplus means that the region must either be accumulating financial claims on non-residents, or there must be a policy-induced transfer of funds out of the region. Thus the trade aspects of the Canadian economic union are directly related to the fiscal transfers reviewed in a later section of this chapter.

As Table 22-4 indicates, only Alberta and Saskatchewan show a surplus on overall trade in goods. Alberta shows a positive balance on both internal and external transactions, while Saskatchewan's success in international markets offsets a deficit in trade with other provinces. In 1979, all other provinces in Canada consumed more in the way of primary and secondary products than they produced. For three of these, Nova Scotia, New Brunswick and Manitoba, this was true for both interprovincial and international trade. In Newfoundland, Prince Edward Island, Saskatchewan, British Columbia and the northern territories, a positive balance with foreign nations partially offset a deficit with other Canadian regions. For central Canada, the situation was exactly the reverse. Large external deficits were covered, in part, by a surplus of sales over purchases from other provinces.

In Table 22-5, which adds trade in services, the picture alters somewhat. Now all four Western provinces show a surplus, selling more than they import. Alberta does so both nationally and internationally. British Columbia and Saskatchewan sell more in export markets than they import from abroad, but buy more from other provinces than they sell to them. Manitoba reverses the record of British Columbia and Saskatchewan. Nova Scotia shows a deficit both internationally and interprovincially.

As to trade within Canada, four provinces, Quebec, Ontario, Manitoba and Alberta, were net sellers of goods and services to the other six. In international trade, Newfoundland, Prince Edward Island, New Brunswick, Saskatchewan, Alberta and British Columbia produced surplus trade

**TABLE 22-4 Trade Balances on Goods by Province, 1979**

	('000 \$)		
	Balance with Other Provinces	Balance on External Trade	Overall Balance
Newfoundland	-1 030 980	767 480	-263 500
P.E.I.	-248 780	14 910	-233 870
Nova Scotia	-755 130	-826 810	-1 581 940
New Brunswick	-1 081 900	-103 560	-1 185 460
Quebec	551 330	-5 174 660	-4 623 330
Ontario	6 123 040	-8 724 370	-2 601 330
Manitoba	-711 220	-232 180	-943 400
Saskatchewan	-1 438 830	1 682 330	243 500
Alberta	2 009 370	2 694 710	4 704 080
British Columbia	-3 079 780	2 736 900	-342 280
Yukon and N.W.T.	-337 160	329 420	-7 440

*Source:* Calculated from Statistics Canada, Input-Output Division, Interprovincial Trade Flow Data, 1979.

**TABLE 22-5 Trade Balances on Goods and Services by Province, 1979**

	('000 \$)		
	Balance with Other Provinces	Balance on External Trade	Overall Balance
Newfoundland	-1 174 790	878 400	-296 390
P.E.I.	-275 790	24 140	-251 650
Nova Scotia	-850 880	-871 870	-1 722 750
New Brunswick	-1 264 960	173 380	-1 091 580
Quebec	218 660	-4 294 840	-4 076 180
Ontario	7 463 330	-7 357 420	-105 910
Manitoba	108 350	-55 790	52 560
Saskatchewan	-1 862 010	2 087 500	225 490
Alberta	1 710 800	2 984 310	4 695 110
British Columbia	-3 683 430	4 114 790	431 360
Yukon and N.W.T.	-389 280	343 790	-45 490

*Source:* Calculated from Statistics Canada, Input-Output Division, Interprovincial Trade Flow Data, 1979.

balances, as did the northern territories. The other four provinces produced deficits.

This pattern of overall trade imbalances has changed since 1974.<sup>2</sup> Ontario moved from a large surplus to a small deficit in 1979. This shift reflects the dramatic change in energy prices and the consequent large outflow of funds to the oil-producing provinces. The only other notable changes are shifts in Manitoba and British Columbia from deficit to surplus. While British Columbia's surplus reflects energy developments, the shift in Manitoba's trade pattern is more difficult to explain, although it, too, probably reflects spin-offs of Western energy development.

Two general conclusions from this brief overview of the pattern of production and trade within the Canadian economic union help inform subsequent sections of this chapter. First, interprovincial movements of goods and services are a small portion—about one-fifth—of the total activity of the Canadian economy. As Commissioners explain subsequently, we do not believe that these movements are restrained significantly by existing barriers. Secondly, the position of individual provinces within the economic union varies significantly, most notably in the discrepancies between sales to other provinces and purchases from them.

## **Market Integration and the Concept of the Economic Union**

An economic union represents an advanced stage of economic integration. It involves the removal of customs duties among participating jurisdictions, the creation of a common external tariff, the elimination of barriers to the free movement of goods and the factors of production (labour and capital), and the harmonization of economic policies. In addition, in an economic union, certain policies which were previously the responsibility of the participating jurisdictions are transferred to, or co-ordinated through, a central authority.

Canada was intended to be, and has clearly become, much more than an economic union. It is useful, nevertheless, to employ the concepts and principles associated with the theory of economic unions to analyse interprovincial economic and political linkages within the Canadian federation. Accordingly, we must be concerned with the internal flows of goods, services, labour and capital, as well as with government policies in the form of distortions and barriers that affect those flows, and with the purposes or justifications for those policies.

The concept of distortion is very broad, including any policy which interferes with the resource-allocation functions of the market, thereby preventing the free flow of capital, labour or goods and reducing the advantages that can be gained from specialization and exchange. We shall concern ourselves here with those government interventions that distort interprovincial trade or factor flows in the sense that observed exchanges are different from what they would be in a totally unfettered environment. We shall not examine intraprovincial distortions which may affect the nature of economic activity within provinces.

Some policies, appropriately termed “barriers”, restrict transactions among provinces; when this happens, the economic costs can be identified as

unexploited gains from trade. These gains constitute the traditional concerns of economic unions. Other types of policies may have the effect of augmenting interprovincial trade. Sometimes this outcome is intentional, as, for example, the decision in 1973 to divert Western oil supplies from U.S. markets to Eastern Canada. Sometimes it is only an incidental effect of a policy directed to other ends. Tariffs, for instance, are used to promote industrial development, but in a country of specialized regional economies, external tariffs increase the volume of internal trade. In these instances, it is much more difficult to identify the economic costs, as these costs are a complex mixture of diverted trade, extra transportation charges and the like. Typically, there is also an interregional distribution effect which, politically at least, often dominates efficiency concerns.

The concern about “maintaining”, “protecting”, “preserving” or “ensuring” the Canadian economic union is not new. As early as the 1930s, the concern about an emerging Canadian “tax jungle” was paralleled by concerns about “obstacles” to trade within Canada. The *Report of the Royal Commission on Dominion-Provincial Relations* (the Rowell-Sirois Commission) addressed the issue directly:

*The member states of a federation at the outset are likely to be states which have imposed tariff barriers and, perhaps, other obstacles as well, to their trade with one another. These states or provinces after federation are apt to reach a stage of development at which there is bound to be political pressure in favour of some form of local protectionism. The desire to maintain and to augment the provincial revenue, to develop new industries, to ensure employment during a period of depression, to protect wage levels and working conditions against “unfair competition” or “social dumping”, may all, at one time or another, contribute to this demand for local protectionism, which may appear even in municipal politics.<sup>3</sup>*

As the range of governmental concerns has broadened, and as the resources and policy instruments available to governments have increased in the post-Second World War period, the potential for such protectionist policies has grown dramatically.

The current interest in the integrity of the economic union emerged prominently during the constitutional discussions of 1979 and 1980. Debate was fuelled by a number of dramatic examples of provincial protectionism and by reaction to more aggressive provincial economic development strategies. The focus on internal barriers to trade united two developments: the political concerns of the federal government and some provinces about the implications of provincial protectionism, and the renewed interest among policy makers in the importance of the free market as the engine of growth. The latter concern was as much related to federal intervention in the economy as to that of the provinces.

The anticipated benefits of forming an economic union are the potential gains from specialization and trade, based on the theory of comparative advantage. In the Canadian context, the varying economic bases in the different regions of the country create different comparative advantages and hence the opportunity for mutually profitable interregional trade. Where



economies of scale in production are important, and the individual regions are small, the gains from trade can be that much greater. The greater the harmony in such policy areas as product standards, labelling requirements and consumer-protection laws, the larger will be the gains. Further gains are possible if the participants in the economic union, by exploiting some bargaining power that no member alone possesses, can shift the international terms of trade in their favour.

By preventing trade flows that would otherwise occur, internal barriers preclude the gains from specialization and exchange. The region that imposes them will have to produce products or services itself, thereby using more resources than necessary because of its comparative disadvantage. The costs of the barrier, then, are equal to the difference between what could be produced or supplied if resources were allocated optimally and what actually is produced. This represents an economic loss in the sense that it involves real output forgone which can never be recouped. The greater the volume of trade suppressed by these barriers, the more the potential benefits of an economic union will be dissipated.

Trade liberalization within Canada does not mean that every possible combination of interregional exchange will generate a surplus. Nor does it imply that even where a surplus results, it will be the largest possible for any given member. Benefits are critically dependent on the nature of the economies of members of the economic union, relative to the economies of non-participating jurisdictions, and on the most likely option to the existing or proposed arrangement. Economic gains, or "trade creation", occur when the opening of trade results in production being shifted from high-cost local suppliers to lower-cost sources elsewhere within the economic union. The larger market also allows producers to take advantage of the economies of scale associated with larger production runs. However, if imports switch from lower-cost external sources to higher-cost sources within the economic union, trade is said to be "diverted". The fact that some members may be internationally cost competitive in their main outputs, while others are not, suggests the possibility that an internal market with a common external tariff can produce unequal regional advantages for its members.

The second facet of common-market economic integration deals with factor markets: labour and capital. Interregional factor mobility can also add to national output. At any given moment, a nation has a fixed supply or endowment of capital and labour, distributed among its various regions. Total output will be at a maximum when the values of the contributions of the last units of capital and labour employed are identical across regions. Under certain conditions, free mobility will generate this optimal interregional distribution of factors. If capital and labour are paid the value of their contribution to output, any differences in productivity across regions will be reflected in wages or rates of return. Assuming that at least some workers or owners of capital perceive the potential gain and react to it, the reallocation will be made. As migrants leave a region, the contribution of those remaining rises, since there is a greater supply of capital and resources per worker. For the corresponding reason, the relative contribution of workers falls in the destination area. Since these changes will be reflected in factor rewards, the

theory is that migration should continue until all wage differences, and hence all real productivity differences, are removed. If there are real costs to migration, a gap will remain, but the result will still represent an optimal factor distribution, provided that prices and wages are flexible.

The potential cost of barriers is also evident in relation to the integration of factor markets. Barriers which stop migration short of the point where factor prices are equalized prevent some economically efficient movements. Total national output will be lower than it might be, since factors which could be more productive in another region are prevented from relocating. The difference between actual gross national product (GNP) and its potential in a free factor-flow situation represents the economic cost of the impediments. Whether these costs are justified in terms of overall well-being depends on the values attached to the maintenance of local communities and their preferences for a distinctive pattern of life, including distinctive public services.

An additional, though indirect, contribution of free factor mobility to aggregate output comes about through the role that mobility plays in the interregional adjustment process. Regional economies will grow at different rates because of the uneven effects of such developments as technological change or shifts in the terms of trade. Individually, each region would have to adjust to such dislocations internally, generally through some combination of changes in prices, incomes and employment. Adjustments through the exchange rate are impossible because of the absence of regional currencies. Since wages and prices are typically "sticky" downwards, the brunt of the adjustment in declining areas will be in the form of unemployment.

If factors are free to relocate between regions, however, there is a further avenue of adjustment to external shocks which reduces the extent of internal adjustment required. Migration provides the opportunity for residents of regions adversely affected to benefit directly from some of the gains of those more favourably situated. If it is possible for people to relocate, there is less need to worry about diversifying employment possibilities in each region. Free factor mobility provides a type of employment insurance, permitting the fullest possible gains from interregional specialization and trade. Those unlucky enough to be caught in a declining industry in one region can move to expanding industries located in another. This insurance feature is even more pronounced if the economic union provides, as most do, for regional adjustment assistance. Thus interregional mobility, like freedom of trade, is an integral feature of any economic union, permitting optimal allocation of resources within the national economy and easing the costs of adjustment to economic shocks.

These, then, are the basic concepts to be derived from the theory of economic integration. They illustrate the conditions under which integrating product and factor markets across regions can increase aggregate output and thus, by inference, how interprovincial barriers can obviate such gains.

This economic perspective is reason enough for Canadians to be concerned about the state of the economic union. To the desire to maximize economic well-being, however, must be added the political objectives of an economic union. Barriers to mobility and trade may weaken our sense of national identity. From this perspective, Canadians would oppose fragmentation of the

economic union, even if we were assured that the direct economic costs were negligible.

Political opposition to fragmentation has several dimensions. It is derived, in part, from a sense of common citizenship, which involves both individual and commercial expectations of a broad stage on which to pursue economic opportunity and personal development:

*Just as all Canadians should be free to seek work and operate freely anywhere in the country, Canadian businesses should be allowed to compete on an open and fair basis anywhere in the country.*

(Maclean Hunter Limited, Brief, November 14, 1983, p. 6.)

The political arguments for economic union also involve a sense of national community, perhaps a sense of place in a complex international environment, and an appreciation of the necessity for sharing risks and opportunities amongst its members:

*The Economic Council of New Brunswick retains the vision of an independent Canada and of a society with a distinct identity. For us, to be Canadians is to recognize and support free trade across the whole of Canada, unimpeded by barriers imposed by the law or by big business; but it is also to recognize the necessity for a fairer sharing of the rewards of this efficiency which we expect to attain.*

(Conseil économique du Nouveau Brunswick Inc.,  
Brief, September 13, 1983, p. 6.)

Political criteria lead Canadians to think somewhat differently about the economic union than pure market criteria would suggest. The only market justification for a barrier is its correction of an already existing one. Moreover, economic theory does not distinguish between Canadian economic union and any other kind. Indeed, its logic asserts that the larger the market, the better. It argues, too, that multilateral free trade would make our worry about the domestic market less pressing. In contrast, the political view of the market is explicitly concerned with the Canadian economy and its health. It was a political view of the Canadian economic union which produced the national policy and which justified the decision to build a railway across a continent. An economic view of the economic union asserts that integration within Canada is merely a "second-best" alternative to involvement in a multi-national market. A political view argues that building economic linkages among Canadians is of value in itself, and that it increases personal contacts and relationships among Canadians which contribute to a sense of shared identity and common citizenship. It also adds a great many other considerations, such as equality, social justice, a clean environment and other social goals, to the assessment of well-being. Thus, it potentially justifies a much wider variety of what economists call "distortions" including, most notably, policies such as equalization that are intended to ensure a fair regional distribution of benefits and regional economic development policies designed to enhance the contribution of regional economies to the national welfare.

The previous reference to a political concern for provincial/regional economies and communities makes it clear that the political criteria



applicable to the evaluation of barriers and distortions differ from economic criteria in supporting two distinct perspectives. These perspectives reflect the values that Canadians place on the national community, on the one hand, and on provincial communities, on the other. From the perspective of the national community, barriers which may be trivial in economic terms may be politically significant if they offend against our sense of Canadian citizenship. From the provincial perspective, barriers which many would oppose for economic reasons because they generate significant economic costs for Canadians, may be considered politically desirable by others because they strengthen provincial communities. These alternative political criteria not only differ from economic criteria in the policies to which they lead, but also differ from each other. This tension between national and provincial political criteria with respect to evaluating the economic union is inherent in federalism.

With these considerations in mind, Commissioners turn to the legal dimensions of the economic union.

## **Constitutional Protections**

The basic elements of the Canadian economic union are found in the Constitution Act, 1867. Section 121 eliminated customs duties and other similar duties among the provinces: "All Articles of the Growth, Produce, or Manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces."

The Courts have interpreted this section as a general principle applicable to both orders of government, forbidding the erection of tariff barriers to the free circulation of goods among the provinces. The actions of the central government have tended to be less rigorously examined, since that government is presumed to act in the national interest. Furthermore, section 121 applies only to trade in goods; it does not apply to factors such as capital and labour, and it is uncertain whether it would apply to services and non-tariff barriers.

In spite of the existence of section 121, it has been more common for the Courts to use section 91(2)—the regulation of trade and commerce—to invalidate provincial legislation restricting interprovincial trade of goods. To maintain the appropriate balance between Parliament and the legislatures, however, the Supreme Court has recognized the provincial power to regulate some aspects of trade within the province, even in cases where the interprovincial flow of goods was affected by provincial production controls, marketing schemes, the creation of monopolies, and the like. The efficacy of sections 121 and 91(2) has been further limited because these sections can more easily be employed to focus on legislative and regulatory interventions of governments, rather than on administrative aspects such as purchasing policies and grant giving. On the other hand, the exclusive jurisdiction of Parliament over interprovincial and international transport systems greatly reduces the likelihood that policies would be formed in the field of transportation which could be detrimental to the free movement of goods within Canada.



The provisions for the free flow of goods in the economic union have recently been augmented by provisions with respect to the mobility of labour. Section 6 of the Canadian Charter of Rights and Freedoms assures the individual of the right to settle and earn a living anywhere in Canada. This provision of the Charter which deals with the mobility of labour automatically deals in part with the issue of constitutional protection for interprovincial trade in services. However, there are qualifications on the constitutional protection of personal mobility. Moreover, section 6 of the Charter does not clearly address the issue of services that may be provided across provincial borders without the need for personal mobility. Technology makes it possible for such services as information processing, counselling and professional advice of a legal or financial nature to be provided almost anywhere in Canada from a fixed location. This component of the service economy within the Canadian economic union does not now enjoy a secure constitutional safeguard.

The possibility that section 121 may be interpreted as applying to services and to non-tariff barriers is suggested by the opinion of Justice Rand of the Supreme Court of Canada in *Murphy v. CPR*.<sup>4</sup> Justice Rand used the words “fetters” and “impediments” rather than the traditional language of customs duties or taxes. He emphasized the importance of the free flow of “commerce” within Canada, rather than the narrower concept of articles, goods or products:

*I take section 121, apart from custom duties, to be aimed against trade regulation which is designed to place fetters upon or raise impediments to or otherwise restrict or limit the free flow of commerce across the Dominion as if provincial boundaries did not exist.*

Commissioners would favour a broad reading of section 121 that includes protection from tariff barriers for the free flow of services within the Canadian economic union. Present uncertainty regarding the interpretation of section 121, however, inclines us to support in principle a constitutional amendment to clarify the situation. As an interim measure, guidelines developed through intergovernmental discussion and negotiation are desirable to preclude the development of tariff barriers to internal trade in services. We examine shortly procedures for responding to the problems of non-tariff barriers applicable to both goods and services within the Canadian economic union.

The Constitution deals with the free flow of capital through the division of powers; it gives the federal government primary jurisdiction, including responsibility for currency and exclusive power to regulate the banks, comprehensive power in the field of taxation, and other general powers applicable to capital flows. Provinces have regulatory authority over “near-banks”: institutions such as trust companies and credit unions. Provinces also have some power to control capital inflows, derived from their jurisdiction over resources, local enterprises, land use, and their extensive regulatory and other authority pertaining to property and civil rights; this last includes control over securities markets, pension funds and insurance.

## Internal Barriers to Trade

As the preceding section has shown, the constitutional framework, while providing the essential guarantees of an economic union, has some important gaps and ambiguities which have permitted a wide variety of impediments to grow up. Here Commissioners identify a few distortions that significantly affect the free flow of goods and factors in Canada.<sup>5</sup> A survey of the policies involved may give the impression that any and all deviations from pure free movement of goods and factors of production are inherently bad. If that were so, our job would be simple: we would write a cast-iron constitutional provision which would rule out all such deviations. If we were to do that, however, we would probably also be recommending an end to federalism or to any federal regional policies. In fact, of course, a great many barriers, federal and provincial, are justified on political or economic grounds.

### *Federal Government Policies and Interprovincial Trade*

It is a common assumption that impediments to the free flow of trade are primarily, if not solely, a result of provincial government activity. Substantial distortions also result, however, from federal government actions. Historically, the most controversial federal distortion—one which “artificially” inflates trade among provinces and distorts the interregional terms of trade—is the tariff. The tariff has allowed manufacturers to sell greater volumes of domestically produced goods to consumers at higher prices than would otherwise be possible. Since production of manufactured goods has been concentrated in central Canada, while consumption is dispersed throughout the national market, the tariff results in an interregional redistribution of income.

Although these traditional concerns have been attenuated by the general drop in tariffs, they remain important. The recent voluntary restrictions on automobile imports and the continuation of import quotas on clothing give a further advantage to the manufacturing economies to the detriment of consumers. Such measures have stimulated strong misgivings in some regions.

Federal transportation policies, particularly the structure of rates, can also create economic distortions in the volume of interregional trade; nevertheless, there have been strong reasons to favour such policies in order to develop outlying regions. The subsidization of freight rates for the movement of statutory grains, which was in effect more or less continuously from 1897 to 1983, meant that Prairie farmers received a greater return per acre for growing those grains than they would otherwise have done.<sup>6</sup> Less grain was produced in other parts of Canada because of this statutory advantage, and as a side-effect, development of the livestock and food processing sectors in the West was discouraged.

The Western Grain Transportation Act, passed in 1983, allowed Canadian National and Canadian Pacific Railways to charge more for moving grain and to receive an annual subsidy. However, because the subsidy is still paid to the railways rather than to farmers, freight rates remain below the actual costs of moving grain; therefore there continues to be a disincentive to

diversify. Freight rates in Eastern and Atlantic Canada have also been subsidized, in an effort to promote interregional trade, although in recent years, this subsidy has been progressively reduced.

Certain features of Canadian energy policy in the last decade—price and export controls, and subsidies to energy exploration—are also relevant to the present review. Price controls have kept energy prices below world-market prices, thereby encouraging excessive consumption and hence interprovincial shipments of oil and natural gas. Export restrictions have diverted output from destinations in adjacent areas of the United States to locations in Eastern Canada. Subsidies for exploration have favoured frontier areas over established ones, thereby distorting the sequence and location of resource development. Recent energy-policy announcements are likely to attenuate such distortions.

Another source of federally induced distortions is government purchasing policy. In contrast to the examples cited above, purchasing policies have had the effect of restricting interprovincial trade. For this reason, the efficiency costs are more easily identified with the operation of the economic union. Federal government procurement is decentralized through the Regional Supply Centres of the Department of Supply and Services (DSS). These regional offices solicit bids from suppliers within specific “geographic bidding areas”, subject to such considerations as cost and availability of competent suppliers. Bidding practices are intended to ensure “. . . equity of opportunity to compete for government business by all competent suppliers in the area or region.” In addition, when the purchase is made by DSS headquarters, but the product is to be used in the Western or Atlantic provinces, purchases are to be made from suppliers in those regions, subject to cost factors.<sup>7</sup>

Other federal policies could be discussed in light of their significance for the operation of the economic union. As federal governments have increasingly used tax laws, grants and other provisions to stimulate particular sectors or activities such as research and development, the possibility of regional distortions has grown, since these activities are often regionally concentrated. The granting of industrial subsidies to promote regional development has been an explicit attempt to influence the locational decisions relating to projects.

### ***Federal-Provincial Policies***

On occasion, both orders of government act together to create policies that impede interprovincial trade. National agricultural marketing boards, for example, create barriers by introducing rigidity into patterns of production or imposing restrictive regulations.

National supply-management boards are of particular interest. Such boards are established pursuant to the Farm Products Marketing Agencies Act. Products come under the scheme if there is substantial agreement among producers, and the Minister of Agriculture acts. Once a product is brought within the scope of legislation, the relevant federal agency can delegate authority to designated provincial bodies. Overall quotas are allocated to each



provincial body, which then sets out quotas for specific producers. Currently, the production of eggs, chickens, turkeys and tobacco is regulated under these arrangements.

Such market sharing contributes to rigidity in production patterns. Low-cost producers are effectively prohibited from selling into neighbouring areas. Regional quotas are allocated in proportion to total Canadian production over the previous five years. Quotas are not altered, even if the costs of production change, unless the governing bodies decide to vary them. The Act requires that the agency consider the principle of comparative advantage in allocating quotas, but for the production of chickens, eggs and turkeys, the emphasis is on provincial self-sufficiency rather than economic efficiency. In effect, producers cannot produce more than their assigned quotas, and the market is closed to new producers.

### ***Provincial Policies***

One of our intervenors described a general concern about provincial policies:

*Each province, in an effort to enhance the position of its own producers, engages in practices which tend to limit the free movement of goods within Canada. Examples are product promotions, tendering preferences, marketing legislation. Each of these and similar instances may be quite laudable in themselves. But the number and the frequency is growing. The result will be a fragmenting of the Canadian marketplace—a marketplace that is greater than the sum of its provincial parts.*

(Canadian Meat Council, Brief, October 27, 1983, p. 14.)

Provincial governments create distortions by imposing provincial trade barriers. By examining major provincial barriers, Commissioners can try to distinguish deliberately discriminatory policies from those incidental to the pursuit of legitimate provincial social or economic objectives.

Provincial governments, as buyers of goods and services, have shown a tendency to favour local producers of those goods and services. In 1981, purchases of goods and services by provincial and local governments, and hospitals, amounted to the equivalent of 15.2 per cent of gross national product. A preferential purchasing policy may be implicit or explicit, a matter of practice or of law. The usual methods of preferential procurement involve selective or single tender instead of public tender; inadequate publicity or information on bidding, through the use of local source lists; short time limits for the submission of bids; performance requirements tailored to what local businesses can provide; residence requirements for vendors; and preferential margins for local suppliers.

These policies may reach beyond purchases made by governmental agencies and departments to include purchases made by hydro companies, municipal public transit, school systems, railways, airlines, telephone companies, and resource industries characterized by provincial ownership or involvement. A recent study by the Canadian Manufacturers' Association (CMA) indicates the kinds of problems that can emerge. The four Canadian firms manufacturing wire and cable for use in telecommunications, for



example, operate 16 plants, located in every province except Prince Edward Island and Newfoundland. They must establish a regional presence to qualify as suppliers to provincial telephone companies. In the CMA's view, three or four plants would be more efficient and better able to compete internationally.

All provinces have a public monopoly in the sale of liquor. Three types of liquor policies create barriers to interprovincial trade. Provinces may discriminate against out-of-province producers by supporting local products. This discrimination may include preferences in advertising support, in shelf-positioning at retail liquor outlets, in listing requirements, and in pricing policies. Preferential pricing, for instance, has the same function as an internally applied tariff. Furthermore, governments may limit private purchases from other provinces by imposing a quota system or by levying taxes on purchases. Finally, a province may have special packaging requirements that make it too costly for out-of-province products to enter the market. One surprising consequence of provincial regulation of alcoholic beverages, for example, is that consumers in the state of Washington can buy Old Fort beer from Prince George, B.C., and New Englanders can buy New Brunswick's Moosehead, but many Canadian provinces sell neither.

Provincial industrial policies designed to promote economic development often include subsidies and incentives that can harm out-of-province producers. Incentives to direct investment have included financial assistance through grants, loans, tax holidays and loan guarantees; direct equity participation; and provision of infrastructure at public expense. A host of federal programs of industrial assistance have similar, but much broader, effects, though they are often implemented jointly with provinces.

Provincial governments have established a vast range of regulations that also affect interprovincial trade. They have done so, primarily through their jurisdiction over "property and civil rights" and trade within the province. Among these regulations are standards for building or construction, for products and for the environment, and of commercial contract law. This Commission heard of the following case:

*[An example of problems in interprovincial trade] is the situation that arose when the local tomato crop in Essex County was ready for harvesting and packed in litre baskets according to the new federal legislation for shipment to the Quebec market, which takes a rather substantial amount of the Essex County crop, only to have it refused there on the grounds that the province of Quebec still insisted on the old measurement methods and insisted on bushel baskets rather than litres.*

(Windsor-Essex County Development Commission, Transcript, Windsor, October 18, 1983 [vol. 27], p. 5258.)

In addition, some professional licensing practices affect trade in services. All these measures can impose additional costs on buyers and sellers operating across provincial boundaries, and they may well inhibit the development of markets across Canada that would otherwise occur.

In all the above ways, federal and provincial policies, amounting to the imposition of non-tariff barriers (NTBs), can operate detrimentally to affect

the operation of the Canadian economic union. When the volume of interregional trade is reduced by NTBs to a level below what it would otherwise be, the costs to the economic union equal the extra resource costs of failure to exploit fully the gains from trade and specialization.

## The Costs of Interprovincial Barriers to Trade

Economic analysis typically shows that distortions of the sort we have described have a small effect on output costs. Various calculations estimate that welfare losses for 1974 fell between a low of \$130 million, or 0.11 per cent of gross national product (GNP) and a high of \$1750 million, or 1.54 per cent of GNP, depending on the assumptions made.<sup>8</sup> More recent work for this Commission reinforces the conclusion that the economic costs are small.<sup>9</sup> This is a field, however, where estimates are imprecise and controversial. In the foreign-trade field, for example, some recent estimates suggest that the gains from international trade liberalization may be much greater than earlier models suggested. The newer models attempt to take into account the significance of economies of scale. They might have equally dramatic effects if applied to the domestic market. Moreover, the question arises: How small is small? As one participant in our hearings observed, 1 per cent of GNP is "equivalent to the GDP of Newfoundland, not a trivial sum." (Anthony Scott, Brief, December 12, 1983, Appendix, p. 1.)

The explanation for the apparently low costs of barriers is straightforward. Table 22-2 shows that just slightly more than one-quarter of Canadian goods (27%) moves interprovincially. Barriers directly affect little of that portion; most products move quite freely. For those subject to restrictions, distortions in the form of preferences are typically quite small. The combination of generally small distortions applying to a subset of products that in turn make up only a quarter of the total national output, together with the economic methodology underlying the calculations, explain the low numbers.

As presentations made to this Commission have argued, however, measurable economic costs are not the whole story:

*Discrimination based upon province of origin is not a basis upon which to make commercial awards of business when provincial governments or their agencies are involved . . . we would like to be able to compete freely and equally from St. John's to Vancouver with no impediments. We are quite happy with an open market competitive bid system. What we are not happy with is what we consider discriminatory and artificial constraints to [our] doing business within Canada . . . The bottom line is that it is easier to do business in the United States than it is in some of our provinces within Canada.*

(J.D. Smart, Transcript, Toronto, December 7, 1983 [vol. 63], pp. 13173-74.)

This quotation suggests that the costs of barriers to trade may be extremely significant for individual firms, even if aggregate costs for the national economy do not appear to be large. Do these barriers seriously frustrate some individual firms as they buy and sell in the Canadian market? The presence of "economic union" in this Commission's mandate clearly invited private-sector groups to comment on barriers. Participants who did so in our hearings

were primarily engaged in the manufacturing sector, and principally from central Canada.

A survey of 651 manufacturing industries, conducted by the Canadian Manufacturers' Association, found that one-fifth had encountered difficulties in selling goods as a result of provincial restrictions. Larger firms seeking to serve the whole national market complained most. Restrictive policies may, in theory, help small firms, but the same survey showed that only 7 per cent of all firms and only 6 per cent of small ones reported any benefit from procurement rules. The CMA itself believes that proliferation of barriers slows growth in interprovincial trade. A CMA *Position Statement* declares that "we urge all governments to reverse the protectionist trend". Internal barriers, it argues, "cause firms to become increasingly dependent on government". Smaller firms can "fall into a vicious circle where they cannot compete outside the local market". In the CMA view, "our small, fragmented domestic market must be strengthened if Canadian industry is to optimize its efficiency to maximize its competitiveness".<sup>10</sup> If internal barriers scatter production over many small plants, how can we create the large, efficient firms which will succeed internationally? If sellers find that they cannot even count on access to the Canadian market, how can we expect them to be aggressive competitors on world markets?

## Mobility of Capital

Although numerous controls pertaining to the transfer of assets or of corporate property have been established through the years, including regulations on certain public utilities and financial institutions, there have been few barriers to the free flow of capital in Canada. However, a number of incidents in the 1970s focused attention on the issue. In one case, the government of British Columbia blocked the take-over of MacMillan-Bloedel, a major forest-products firm, by Canadian Pacific Ltd. In another, the Quebec government moved to prevent acquisition of a trust company by extra-provincial interests. Both cases seemed to imply a concept of "provincial" capital versus "outside" capital, and both suggested that provincial governments wanted to protect strategic provincial interests just as the federal government acted towards foreign investment.

Could a province prevent capital from moving into its territory? In a legal direct sense the answer is probably no. But the provinces, like other governments, possess many levers which could be used to manipulate such movement. For example, provincial governments control access to provincial forest resources, and British Columbia could have used this leverage. Comparable issues have arisen with respect to land ownership. For example, Prince Edward Island wished to prevent properties along its shoreline from falling into the hands of non-residents and to keep prices from passing out of reach of provincial residents. Accordingly, it passed the Prince Edward Island Lands Protection Act to require non-residents purchasing such land in excess of 10 acres to gain prior approval of its Cabinet. Similarly, in order to preserve family farms, the Saskatchewan Farm Ownership Act limits the amount of farmland that can be held by non-residents or by "non-agricultural corporations".



Government attempts to restrict capital inflows have attracted a good deal of attention, though they are rarely a major concern. Far more important than these high-profile take-over bids are provincial measures to encourage capital either to enter or to remain in the province; these are designed to stimulate local growth. The chief concern is that provinces will embark on a bidding war for a limited supply of capital investment. It is not at all clear, however, whether any of the inducements provinces might use would lead to a misallocation of capital and thus to investments in activities less productive than other possible uses. As long as Canada remains open to international capital markets, provincial government inducements will rarely stand in the way of potentially productive projects in other regions. They might, nonetheless, lead to investment in projects that would not otherwise be financially possible.<sup>11</sup> From the perspective of the economic union, restrictions on capital mobility appear to be of comparatively limited significance, even though efficiency costs within a region might be substantial. In general, there are few restrictions on the mobility of privately held investment funds across provinces, and in an open economy such controls are unlikely to be imposed.

More important, perhaps, are the pools of investment capital that provinces can control more directly. These include the pools of capital created by the Alberta Heritage Savings Trust Fund, and by a similar, smaller, trust fund in Saskatchewan. Other provinces could create such institutions, depending on, for example, the success of oil and gas development off the shores of Newfoundland and Nova Scotia. In addition, provinces control the use of the money in their public pension funds. The most important such instance is Quebec's *Caisse de dépôt et de placement*, which manages both the money generated by the Quebec Pension Plan and that generated by the pension fund of Quebec public employees. Outside Quebec, funds associated with the Canada Pension Plan are allocated provincially.

Provincially-owned Crown corporations create additional pools of capital. In varying degrees, all of these promote development within the province. However, there are conflicts between advocates of a policy of investing accruing funds at market rates and thus allowing the Crown corporation to achieve a "good track record" and advocates of investing at lower rates in pursuit of specific policy goals, and a related conflict between viewing the agencies as autonomous bodies and considering them as instruments of government policy. If these agencies acquire control of major corporations, they could induce these corporations to locate facilities within the province or otherwise act to prejudice their other shareholders—in effect to "beggar their neighbour". Such concerns underlay the proposed federal Bill S-31, the Corporate Shareholding Limitation Act, which would have limited shareholding of provincial agencies in federally regulated transportation companies. Such dangers, however, seem more potential than actual. Provinces using their holdings in private corporations to "divert" activities to themselves might face not only the discipline of the market-place, but also retaliatory action by the federal or other provincial governments.

Why should provinces not use revenues generated by their own resources, such as Heritage Funds, to promote development? They may provide infrastructure or invest in activities not otherwise able to attract funds. The



investment policies of the Alberta Fund though much criticized, have husbanded revenue for the future and stimulated economic activity. Similarly, the *Caisse*, together with a network of other Quebec investment institutions, has helped to develop a strong, self-confident, francophone, business community which is now playing a larger role in Canada. Such developments, it can be argued, tend to strengthen Confederation, not weaken it. However, as Commissioners have noted earlier, if such funds are used to provide subsidies for local firms, they can harm out-of-province producers.

Another provincial activity that can impede mobility of capital and might contribute to a misallocation of funds is provision of inducements to private investors, through tax concessions, loan guarantees, grants and the like. All provinces use a wide variety of such incentives; all seek to encourage investment through provision of infrastructure and various services. Complementing such provincial programs is a similarly wide range of federal programs. Alberta claims that it withdrew from the Tax Collection Agreements to collect its own corporation income tax so that it could offer tax inducements to capital. Other provinces have considered such a move. Among the measures introduced or contemplated by various provinces are several that distort allocation of capital and the operation of the common market. In 1979, for example, Quebec introduced a program that allows its residents a tax deduction equivalent to the cost of purchasing new share issues in Quebec-based companies.<sup>12</sup> Provincial governments also have programs to stimulate small business. For most such programs, the amounts involved are limited; therefore, assuming open capital markets, their effect is likely to be over-investment in subsidized activities, rather than insufficient investment in productive uses elsewhere.

This last point suggests that our chief concern should be not with barriers to capital mobility, but with managing our capital markets to ensure an effective national market. Those seeking funds should be fully informed about potential capital sources, and those with capital should have the means to know about investment opportunities across the whole country.

## **Personal Mobility**

Canada is a nation of immigrants, from the first aboriginals who crossed the Bering Strait, to the first French settlers of the St. Lawrence Valley, to the United Empire Loyalists, to the eastern Europeans and others who settled the West at the turn of the century, to the immigrants who have entered the country since the Second World War. We Canadians have also been mobile within our borders: eastern Canadians helped to populate the West; after the Second World War, prairie farmers moved to urban areas; more recently, Newfoundlanders have found jobs on western oil rigs. We have also been mobile across national borders: until the United States introduced strict immigration quotas in the 1960s, it often proved more of a lure to mobile Canadians than did other parts of Canada.

The 1981 Census, as Table 22-6 shows, indicated that just over six in ten Canadians more than five years old lived in the province in which they were born; one in eight Canadians were immigrants; the remaining quarter had

moved from another province. There are huge variations among provinces. Newfoundland, with 83 per cent of its residents born there, and Quebec with 88 per cent of provincially born residents, had the most stable populations. In the Maritime provinces, in Manitoba and in Saskatchewan, from 56 to 66 per cent of residents live in the province of their birth. In British Columbia and Alberta only about one-third of residents are native to the province, in the Northwest Territories, one-quarter and in Yukon, one-tenth.

**TABLE 22-6 Proportion of Population 5 Years and Over Living in the Same Province as at Birth, 1981**

	<b>At Birth (%)</b>	<b>Born Abroad (%)</b>
Canada	61.1	13.3
Newfoundland	83.0	2.4
P.E.I.	56.0	5.5
Nova Scotia	59.7	6.8
New Brunswick	63.0	5.0
Quebec	87.9	6.4
Ontario	62.8	19.5
Manitoba	60.2	8.4
Saskatchewan	66.4	6.2
Alberta	35.0	11.8
British Columbia	37.9	18.6
Yukon	10.6	11.4
N.W.T.	23.1	8.6

*Source:* Calculations made using data from Statistics Canada, *Mobility Status*, Cat. No. 92-907 (Ottawa), vol. 1, table 6, pp. 6-1 to 6-6.

Between 1972 and 1984, an average of 380 000 persons a year moved across provincial boundaries: that is, about 15 for every 1000 Canadians.<sup>13</sup> Such figures conceal large variations in population flows in the past few years. As Table 22-7 shows, between 1971 and 1983, five provinces—Newfoundland, Quebec, Ontario, Manitoba and Saskatchewan—and the northern territories experienced net out-migration. During this period, the overall statistical record contradicts the traditional image of the Maritime provinces as a source of population for other regions. Conversely, Ontario, traditionally a magnet for mobile people, was a net loser of population through internal migration for most of the period 1971–81. Quebec experienced net population decline on the balance of internal migration in every year. On balance, Manitoba lost population to other provinces every year but one. Saskatchewan had a similar record for most years, though it gained more people from other provinces in the mid-1970s than it lost through out-migration.

Throughout the 1970s and early 1980s, Alberta and British Columbia experienced rapid population growth from internal migration, gaining 278 153 and 227 247 residents, respectively. These two provinces, as Table 22-8 records, were the destination for 40 per cent of all migrants from 1971–

TABLE 22-7 Balance of Internal Migration for Provinces and Territories, 1971-72 to 1982-83

Year	Nfld.	P.E.I.	N.S.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.	Yukon and N.W.T.
1971-72	910	290	-371	612	-20 461	14 080	-8 311	-19 207	3 575	27 044	1 840
1972-73	-537	923	4 276	2 077	-20 072	960	-5 770	-16 164	5 564	27 333	1 410
1973-74	-3 316	502	1 274	1 448	-15 135	-2 886	-1 596	-11 604	2 235	30 496	-1 418
1974-75	495	1 390	2 233	6 103	-9 299	-29 535	-6 912	378	22 576	11 831	739
1975-76	591	649	3 895	6 561	-12 643	-21 179	-4 238	5 845	24 621	-4 419	317
1976-77	-4 149	154	-799	-82	-26 366	-6 402	-3 531	3 182	34 710	5 016	-1 733
1977-78	-4 311	700	-416	-1 348	-46 429	8 510	-4 674	-1 719	32 543	17 576	-432
1978-79	-3 374	-74	-357	-1 171	-30 884	-4 325	-10 746	-2 878	33 426	22 005	-1 622
1979-80	-3 597	-358	-2 732	-2 761	-29 976	-22 362	-13 864	-4 493	41 435	40 164	-1 456
1980-81	-3 552	-1 251	-2 836	-4 989	-22 841	-33 247	-9 403	-3 808	44 250	37 864	-187
1981-82	-5 693	-856	-1 936	-2 842	-25 790	-5 665	-2 625	-323	36 562	8 705	463
1982-83	1 665	209	1 428	2 491	-22 568	15 112	389	2 660	-3 344	3 632	-1 664
Total	-24 814	2 278	3 668	6 099	-280 464	-86 939	-71 281	-47 951	278 153	227 247	-3 743

Source: Statistics Canada based on data from *International and Interprovincial Migration in Canada*, Cat. No. 91-210 (Ottawa, various years).

**TABLE 22-8 Percentage Distribution of Interprovincial Migration  
by Province of Origin and Destination, Average for 1971-72  
to 1982-83**

Province	Origin	Destination
Newfoundland	3.3	2.7
Prince Edward Island	1.0	1.0
Nova Scotia	5.6	5.7
New Brunswick	4.5	4.6
Quebec	13.9	7.6
Ontario	25.8	23.4
Manitoba	7.8	6.3
Saskatchewan	6.9	6.2
Alberta	15.8	22.5
British Columbia	13.6	18.3
Yukon and N.W.T.	1.8	1.7
Total	100	100

Source: Statistics Canada, based on data from *International and Interprovincial Migration in Canada*, Cat. No. 91-208 and Cat. No. 91-210 (Ottawa: various years).

72 to 1982-83. These patterns of internal migration reflected larger economic trends in the period. In 1970-71, for example, only 12.4 per cent of migrants leaving Ontario went to Alberta; but for the period 1970-71 to 1981-82, an average of 24.9 per cent entered that province. In 1971-72, fewer than 3000 Atlantic Canadians moved to Alberta; in 1981-82, over 14 000 did so. Following the slow-down in western resource development in 1982, these patterns reversed. In 1983 and 1984, Alberta was a net loser in interprovincial population movements. A return flow was evident, and Ontario and the Maritimes were once again recording net gains in in-migration.

Thus while we Canadians are a nation of regions and of settled communities, we are quite mobile. This mobility facilitates economic adjustment as individuals move from areas of lower to higher economic opportunity. It also spreads ideas, thus contributing to mutual awareness and understanding, and to a sense of citizenship. In addition, it allows citizens to respond to intergovernmental competition in policy by "voting with their feet", thus taking advantage of one of the virtues of federalism.

The British North America Act of 1867 did not formally enshrine the principle of the free circulation of persons within the Canadian economic union, although on occasion, the courts have found support for this principle in the common law. For example, in a decision<sup>14</sup> handed down in 1951, in the case of *Winner v. S.M.T. (Eastern) Ltd.*, Mr. Justice Ivan Rand of the Supreme Court stated that:

*A province cannot, by depriving a Canadian of the means of working, force him to leave it: it cannot divest him of his right or capacity to remain and to engage in work there: that capacity inhering as a constituent element of his citizenship status is beyond nullification by provincial action.*



Section 6 of the Charter of Rights and Freedoms recognizes the right of all Canadian citizens and all permanent residents of Canada to move freely throughout the country and to earn a living in any province. This clause binds both Parliament and the Canadian government, as well as the provincial legislatures and governments. Yet there are limits to these rights of mobility, which we shall consider in Chapter 23 in the context of a more extended discussion of the Charter.

Economic incentives are the main forces shaping migration flows, particularly for Canadians in the labour force. Not surprisingly, there are more moves over relatively short distances than there are journeys across the entire country. People also tend to move from lower- to higher-income areas, and to be influenced by prospects for higher wages and better job opportunities.

Other factors or personal characteristics are also important. Better-educated citizens, for example, are more mobile. Language differences exercise a major influence over decisions to move: French-speaking Canadians now seldom move to English-speaking areas; and there is little movement of English-speakers into Quebec. Data indicate that on balance, French-speaking Quebec is gaining francophones as a result of interprovincial migration. Between 1971 and 1976, for example, net in-migration to Quebec was 4.5 per cent for francophones and 0.4 per cent for anglophones. Knowledge of English seems to be an important determinant in the contemporary decision either to stay in Quebec or to move to another province. A unilingual anglophone is much more likely to make such a move than a unilingual francophone. This is one reason why Quebec is gradually becoming a more French-speaking society. These data suggest that mobility depends largely on personal decisions, based on the expectations of individuals and families, and on their own cultural and linguistic characteristics.

Government policies, too, may influence the decision to migrate. For example, high levels of taxation at the provincial and municipal levels may encourage some people to move or deter them from doing so. Variations in "net fiscal benefits", a combination of levels of taxation and levels of services, appear to have encouraged migration to Alberta during the resource boom, independent of the relative decline in the Ontario economy and rapid development in the West. This type of influence may well become more decisive if provincial variation in taxation rates and government services continues to grow, especially in such highly visible areas as taxes on income and retail sales. To the extent that equalization and other transfers restrain divergence in tax rates, personal mobility will more likely respond to other economic signals and individual preferences.

As Commissioners have concluded earlier in this Report, there is also evidence that Unemployment Insurance benefits reduce the incentive for citizens to move in search of new job opportunities. The effect of other differences between provinces—licensing requirements for professionals, different school systems, and the like—is not easy to assess.

Finally, cultural factors themselves may be influenced by policy. The size and distribution of the population of francophone Canadians outside Quebec reflects, to a considerable extent, the relative absence throughout much of

Canadian history of sympathetic approaches to French-language minorities by the other provincial governments and their electorates. More recently, the federal government has sought to ensure rights of minority-language education and to provide its services in minority languages across Canada, partly in order to make it possible for French-speaking Canadians to be mobile outside Quebec without giving up their language.

To evaluate fully the effect of barriers to personal mobility in Canada, it would be necessary to know both the proportion of the labour force affected by those restrictions and the degree of their severity. The costs of such barriers would include the costs to individuals of relocating, despite restrictions, as well as the reduction in overall economic performance resulting from any labour shortages that can be attributed to the barriers. The complexity of the process of analysing certain types of mobility barriers accounts for the lack of data on the costs of existing restrictions on labour-force mobility. We can, however, provide illustrations of barriers to interprovincial mobility, and speculate generally on their implications for the economic union.<sup>15</sup>

A number of provinces have introduced guidelines or restrictions giving preference in employment to local residents. Some of these rules apply to private employers; others operate in the public sector. For example, regulations introduced in 1978, under Newfoundland's Petroleum and Natural Gas Act, provide that: "It is deemed to be a term of every permit or lease that a permittee or lessee shall give preference in his hiring practices to qualified persons normally resident in the province." The 1985 offshore-resources agreement between Canada and Newfoundland calls for "first consideration" to be given to goods and services provided in Newfoundland, where these are competitive in price, quality and delivery. Newfoundland residents are to receive "first consideration" for training and employment opportunities, "consistent with the Canadian Charter of Rights and Freedoms."

Other jurisdictions, too, have imposed restrictions. Mobility restrictions in the Quebec construction industry became the subject of interprovincial controversy a few years ago, even though the government had introduced them in response to problems within the provincial industry. Quebec and Nova Scotia extend preferences to provincial residents in hiring for the public service. The federal government has set down comparable requirements to promote employment opportunities for Northern residents in resource development. By extending procurement policies from goods to services, governments have created further restraints on labour mobility.

Some Canadians see licensing and certification requirements for certain trades and professions as threats to labour mobility:

*Two closely inter-related problems pervade the area: lack of uniformity of standards between the provinces and lack of reciprocity (i.e. recognition of out-of-province training or experience).<sup>16</sup>*

Provincial governments confer licensing authority on professional associations in order that they may safeguard the public from injury or abuse. In turn, these associations may create barriers to exclude other professionals from

encroaching on their jurisdiction. It is not always easy, however, to distinguish requirements which ensure competence from those which discriminate against non-residents seeking entry. In trades, licensing and certification requirements are often simply voluntary; provisional certification is frequently available, and the provinces may soon agree to recognize trade qualifications obtained under an Interprovincial Standards Examination.

Lack of portability of private pension plans deters labour mobility and thus may affect interprovincial mobility and transfers of workers among employers. As the loss of accumulated pension benefits has already attracted attention in other studies, Commissioners do not pursue this issue. Loss of entitlement to social services during a period of requalification and provincial income-support schemes may also inhibit interprovincial mobility. In provinces where municipalities administer such programs, local practices may limit eligibility for benefits in ways that deter mobility. The conditions established for the shared-cost Canada Assistance Plan, however, ensure a high degree of protection against such discriminatory measures as residence requirements.

Differences in educational systems across Canada may also deter potential migrants concerned about disruption of their children's education. Limited studies of this difficulty suggest that incompatibilities among educational systems are not a major deterrent to interprovincial mobility. Indeed, differences in educational criteria and standards can occur within a province, as well as among provinces.

Established social, cultural and community ties inhibit interprovincial labour mobility in Canada. Of the cultural ties, language appears to be the most significant. Quebec's Charter of the French Language may well deter the relocation to Quebec of Canadians who do not speak French, or of those who, because of the combined effects of the Quebec Charter and the Canadian Charter of Rights and Freedoms must forgo the right to have their children educated in English if that is their preference. In addition, the tendency of francophone Quebecers to become increasingly unilingual restricts their mobility outside the province, where there are few jobs for unilingual francophones:

*However painful it may be, workers from the Maritimes have only to change their location if they move to Toronto. Such mobility does not endanger the survival of the English Canadian community in general. For Quebec, however, [such] a move virtually corresponds to expatriation.*

(Conseil Exécutif National du Parti Québécois, Brief, December 7, 1983, p. 30.)

Official bilingualism in other provinces, generous minority-language education and a network of French-language/communication services across Canada would facilitate mobility for French-speaking Canadians. Commissioners have no illusions that it is possible to establish throughout Canada, fully bilingual cultural milieux in which francophones would find permanent cultural and linguistic security. Nevertheless, both ongoing adjustment to economic change and the securing of social justice require provision of official-language services and related institutional support across Canada.



This development is needed to facilitate at least temporary movement by francophone Canadians to employment opportunities in various regions of the country if they so wish. Similarly, corresponding language facilities in English and better training in French will facilitate movement of anglophones into Quebec.

Migration can ease interregional adjustment and smooth out disparities in employment and wages. The persistence of such disparities might suggest that the mechanism is not working well. Some of these differences, however, reflect location preferences and migration costs, and thus do not represent disparities in the true sense of that term. Moreover, we must qualify the view that movement should tend to equalize wages. Migration rates are higher among the young, the best-educated and the most productive workers. To the extent that these phenomena occur, movement out of a province might reduce, rather than increase, the average per capita incomes of the smaller population which remains. As tax receipts drop, tax rates might increase, or public services might decline. Thus, while interprovincial migration might not completely eliminate persisting disparities, given these and other qualifications, it can probably still be concluded that the levels of mobility we do experience have made regional disparities smaller than they might otherwise have been.

Just as important as the economic consequences of interprovincial barriers to personal mobility are the effect of barriers on citizens' ability to relocate for personal advancement and satisfaction. The existence and maintenance of a national Canadian community requires that such ability be as great as possible. In this context, Commissioners conclude that the onus for justifying barriers to personal mobility should fall on the governments introducing them.

## **Competition Policy**

One of the fundamental reasons for setting up an economic union is to enhance economic competition among member states. It stands to reason, therefore, that competition policy would be an integral part of the debate on the barriers to trade. Indeed, this is the approach adopted in the Treaty of Rome,<sup>17</sup> which reflects a clear intention to link the development of the European Economic Community not only to the conduct of the member states, but also to that of private business. Article 85 prohibits agreements between firms that affect trade among the member states and restrict competition among firms. Article 86 prohibits abuse by one or more firms of a dominant position. In practice, these provisions prevent private companies from imposing restrictions on trade analogous to those imposed by public authorities, such as import duties, quantitative restrictions and comparable trade barriers.

Thus competition policy in the European Community is, first and foremost, a tool of economic integration. Viewed from that perspective, it appears to have been fairly successful, as indicated by the large number of decisions of the European Commission and the European Court of Justice which strike down reciprocal exclusive-dealing agreements, agreements on market-sharing,



the fixing of production or sales quotas and of prices, and various practices that amount to “an abuse of a dominant position”. Canadians have not approached competition policy as a tool of economic integration: in the context of the economic union, we have not focused on the possibility that the private sector might erect barriers to trade.

Nevertheless, as one study of Canadian federalism and the theory of economic integration has concluded, an effective competition policy is necessary to realize gains from the common market.<sup>18</sup> Because economic activity ignores provincial boundaries, and labour, capital and technology are mobile, it is difficult for provincial governments to regulate anti-competitive practices successfully: such regulation must be federal if it is to be effective. Mr. Justice Brian Dickson of the Supreme Court of Canada stressed in his concurring judgement, handed down in *Attorney General of Canada v. Canadian National Transportation Ltd.*, that

*[A] scheme aimed at the regulation of competition is . . . an example of the genre of legislation that could not practically or constitutionally be enacted by a provincial government . . . If competition is to be regulated at all it must be regulated federally.*<sup>19</sup>

## Justifications for Barriers

So far Commissioners have treated barriers and distortions primarily as if they were inherently undesirable: mechanisms incompatible with a sense of Canadian citizenship, inconveniencing citizens, misallocating resources and lowering economic efficiency. Does this definition always fit? Would Canadians, even in principle, wish to do away with every policy that might operate as a barrier? The answer is clearly no! There are many justifications for barriers and distortions.

Some of these justifications are themselves related to the economy. Some barriers may, in fact, correct for or counteract other barriers. A great many industrial policies are aimed at altering incentives and directing investment into areas that the market itself would not select. Other distortions are justified by a wide variety of social and cultural goals, all considered as contributing to our well-being. Thus social policies redirect resources on grounds of equity, and Canadian-content rules are aimed at protecting our sovereignty or cultural distinctiveness. Within a federal system, the goal of interregional sharing expressed by means of equalization payments and regional development implies non-market allocations essential to the Confederation bargain. Therefore, to determine which barriers are or are not justified involves a complex economic and political calculus, in which different interests will contend.

In principle, distortions imposed by the federal government may be more defensible politically than those imposed by provinces. If the federal government has the interests of the whole country in view, presumably provinces concern themselves with the interests of their own residents. In theory, at least, the Government of Canada, drawing members from across the whole country, makes the trade-offs and balances the concerns of winners

and losers. The national electorate can hold that government accountable, and it cannot pass off the costs of its actions to another jurisdiction. In contrast, if a discriminatory action by one province has harmful or costly consequences for residents of another province, residents of the latter have no means of holding the government of the other province to account, although they may demand that their own province retaliate. A final reason to take a more sympathetic view of federal distortions is that the stronger richer provinces may use distortions to increase their advantages over the smaller and poorer. Federal actions may be able to restore the balance.

The obvious rejoinder to such an analysis is that it depends critically on the degree to which the federal government is nationally representative; electoral politics may make it otherwise. It is, in part, such concerns that led Commissioners to recommend when we considered national institutions, that regional balance be strengthened at the centre.

Should we take a different stand in the matter of provincially imposed barriers? Many such barriers are implicit in the nature of Canadian federalism, with its multiple governments. In many instances, creation of impediments to trade or mobility is a by-product of legislation designed to meet appropriate provincial goals and to respond to the varying legitimate demands or preferences of provincial electorates. For example, provinces may formulate legislation on product standards to protect consumers. These standards may well vary from province to province, taking into account regionally significant factors from climate to culture. It remains difficult, of course, to judge whether a provincial regulation serves local needs or constitutes disguised discrimination against producers in other provinces. For example, stricter consumer-protection laws in one province may inhibit trade; they are not discriminatory, however, as long as the same rules apply to domestic and out-of-province producers. The situation requires examination on a case-by-case basis, and Commissioners will propose a mechanism to undertake this activity. Such examination must take into account and balance such factors as the comparative value of uniformity and diversity, and the object of the regulation as compared with its effect.

More generally, provincial variations in requirements touching education, health care or product standards can impede interprovincial movement of goods, capital and labour. For businesses that operate in several provinces or whose operations include both provincially- and federally-regulated activities, the very existence of numerous sets of regulations, even if there were no substantive variations, would have some costs. For example:

*C-I-L is a typical national employer . . . Employment relationships within C-I-L thus are subject to twelve of the thirteen [including territorial] jurisdictions which legislate labor law. The transfer of an employee from one Province to another, or from one segment of our business to another even without a geographic relocation, can significantly change the rules. In C-I-L's view, this adds unnecessary cost and complexity to running our business with no advantage to employees and much disadvantage to productivity.*

(C-I-L Inc., Brief, October 27, 1983, pp. 6-7.)

Most provincial barriers represent efforts to promote provincial economic development. The Constitution envisions such activity, and the provinces have been involved in it since the first days of Confederation. Voters expect provincial governments to promote economic development within the province: to encourage new industries, support diversification and maintain employment. This is the sense in which we speak of provincial economies, as well as a national economy.

Much more problematic are policies designed to overcome or counteract federal policies, or those designed to discriminate against residents of other provinces. Provinces with greater resources may be in a far better position to compete for capital and investment than those less well endowed. To the extent that investors can play off one government against another, they may obtain uneconomic subsidies or bid wages and protection of the environment down to the lowest common denominator, an international, as well as a domestic, phenomenon.

The result may be the classic "prisoner's dilemma": all provinces have an interest in co-operative effort, in this instance to harmonize policies, but each has an incentive to "cheat" to its own short-run advantage. Provinces may obtain mutually beneficial arrangements when each abstains from actions that might be individually advantageous if others do not retaliate, but mutually destructive if they do. Such arrangements, however, are notoriously unstable. There is always the lure of the short-run advantage and the illusion that other parties might not notice one's actions.

Commissioners' recommendations are intended to reduce the likelihood that governments will form such patterns of behaviour. Federalism justifies variation among provinces in response to local preferences; it does not justify outright discrimination against other provinces. The need to accommodate diversity of preferences, which argues for decentralization, must be balanced against the objective of gains from trade, which calls for greater centralization or uniformity of policies. As almost all of the above examples suggest, conflicts arise between interpersonal and interregional considerations. Commissioners recommend a political process to enable Canadians to distinguish between legitimate preferences and outright discrimination, and to help weigh the benefits of legitimate practices against the costs they may impose on the economic union.

## Assessing the Effect of Barriers

*We do not ignore the political realities behind these barriers but if they are instituted as solutions to certain problems, they must also be recognized as the problems they are for others and as trends in the wrong direction.*

(J.K.C. Mulherin, Brief, August 2, 1983, pp. 4-5.)

Commissioners agree with this statement, but in doing so we do not accept the view that Canada has already become hopelessly balkanized. The direct costs of existing interprovincial trade barriers appear to be small. There are many barriers to interprovincial trade and factor mobility, but their



quantitative effect on the level of economic activity in Canada is not sufficient to justify a call for major reform. There is also – at least at present – substantial harmonization across provinces in areas such as taxation, insurance and securities regulation, where economic efficiency strongly suggests the importance of such co-ordination. Nevertheless, there has been recurrent concern about the state of the Canadian economic union from at least the era of the Royal Commission on Dominion-Provincial Relations (the Rowell-Sirois Commission) in the 1930s. We must address the nature of such concern and consider institutional responses to it.

There are at least two possible explanations for apprehension about the effect of internal barriers to trade. First, costs are small because barriers are limited, and interregional co-operation and co-ordination are still substantial. Economic costs could easily and quickly become much larger. The unravelling process, once begun, could proceed a considerable distance. The validity of this concern is not easy to assess. Certainly, economic losses would multiply as barriers proliferated, and the losses could become quite significant. The important question is whether Canadian governments would ever allow themselves to be caught up in such a process of mutual destruction. The small open nature of most provincial economies constrains this type of behaviour because the costs of most barriers are ultimately borne by the residents of the province imposing them. Nevertheless, this kind of behaviour is certainly possible, even when participants have certain knowledge that in the long term, everyone will suffer as a result.

Secondly, some observers may suspect that economic studies have failed to measure all the costs of market fragmentation. No one, for example, has measured the extra compliance costs associated with the existence of many labour or building codes rather than one. Similarly, we have little detailed knowledge about the extent to which such factors as the non-portability of pension plans inhibit, or even prevent, personal mobility, with resulting costs to the economic union. On the surface, these items seem small. In fact, they may well be quite large, particularly for producers who market goods and services across the country. Most affected are producers who principally supply or service provincial governments, their agencies or institutions under provincial regulation.

This pattern is consistent with the evidence obtained in this Commission's hearings. Though relatively few intervenors raised the issue of barriers, those who did regarded that issue as crucial, describing the great difficulty of overcoming hurdles that inhibit sales across the country. Some intervenors claimed that it sometimes seemed easier to develop foreign markets than those in Canada. We do not know how many others have made no attempt to overcome the barriers or have been reluctant to develop an active presence in other Canadian provinces because they lacked assurance that they would have continued access to those markets. Research to date does not tell us whether existing barriers have kept firms smaller and less efficient than they would otherwise have been, although logic suggests that to some extent this must indeed be so.

Commissioners hope that effective operation of the Canadian economic union can improve Canada's position in a competitive international economy.



If this is to occur, further analysis will be necessary. It may be, as analysts of the “experience curve” in relation to manufacturing have suggested, that firms able to expand quickly their output of new products will achieve significant advantages, on the assumption that some unit-production costs will decline as output increases. A research paper prepared for this Commission, describes some of the considerations involved:

*The speed with which [a firm] can keep doubling its output depends upon how far ahead of the competition it is, the size of the market and how easy to serve it might be. A small market limits the speed with which output can be increased, and places a severe limit on the ultimate size of output that can be achieved. If the firm is competing against foreign firms that have access to a much larger market and are able to accumulate output much faster, it may find that the small market represents an impossible hurdle to international competitiveness.<sup>20</sup>*

Thus gains forgone or to be forgone in the future also justify continuing vigilance over interprovincial barriers to trade. Finally, not all the costs of such barriers are economic. For a Canadian producer to find it easier to sell in the United States or in other foreign markets than in another province is inconsistent with the full development of our national community.

### ***Responding to Barriers: Towards a Code of Economic Conduct***

Through preceding considerations, Commissioners have come to some important conclusions about the state of internal barriers and Canada’s economic union. First, despite recent expressions of concern that the economy is becoming increasingly balkanized and fragmented, the Canadian economic union generally functions effectively. Goods, capital, services and people move relatively freely within the Canadian common market.

There are, however, a large number of impediments to free movement, and many distortions affect the common market. While, in aggregate, the lost economic output from these distortions appears quite small, we Commissioners do not believe that this lost output represents the full measure of the problem, and many Canadian companies and individuals indicate that in fact, the policies in question create considerable difficulties for them. Above the economic rationale, the political rationale for the national right to free movement has a powerful attraction for most Canadians. For a producer to find it easier to sell in another country than in another province offends our sense of Canadianism.

Commissioners consider, too, that the effect of these distortions—and the need for effective co-ordination of economic policy—are likely to increase as Canadians face greater competition from the outside world. Under these circumstances, we Canadians should make internal arrangements that stimulate international competitiveness and facilitate adjustment.

The barriers that exist are often justified in the name of important values. Federalism and the response of governments to local preferences necessarily imply that policies will often differ among jurisdictions. Some lack of harmonization will result, particularly when innovative solutions are introduced by different Canadian governments in response to emerging

problems. Important economic, social and cultural goals may justify government interventions that directly or indirectly affect the free movement of factors. Commitment to redistribution of income and equality of opportunity – both emphasized in this Report – justify some federal barriers. Thus, in particular cases, the challenge is not to eliminate a barrier, but rather to balance the economic benefits of free movement against other goals which Canadians hold. The trade-offs are not exclusively between economic efficiency and political diversity or provincial autonomy within the federation, for Canadian federalism also involves a Canada-wide community that has its own requirements. Moreover, as the Canadian Charter of Rights and Freedoms makes evident, the rights held by individuals have implications for the economic union.

The existence of our Canadian economic union implies not only that the free market should be allowed to operate, but also that governments should take positive measures to facilitate the operation of that market, to overcome market imperfections, and to pursue stabilization and effective industrial and social policies; it also calls for a broad regional sharing of the benefits of economic integration. This factor, in turn, suggests the need for positive measures of co-operation and co-ordination as much as for effective policing of barriers to movement. All these considerations govern this Commission's suggestions for the future.

## *Section 121*

Section 121 of the Constitution Act, 1867 provides important basic support for internal freedom of trade in goods. It can be regarded as a customs-union clause rather than as a common-market provision. Remarkably few cases have cited this section, and its applicability to interprovincial non-tariff barriers (NTBs) and to trade in services is uncertain. Stronger wording of the section would emphasize the fact that formal, legally enforceable, constitutional provisions are the bed-rock on which more political and administrative arrangements are built. In recent years, this rationale has led others to make several specific proposals along these lines.

Commissioners believe, also, that constitutional protection of the economic union should eventually be strengthened; this should be done by amendment of the Constitution if future judicial interpretation does not confirm a broad reading of section 121. In particular, constitutional protection against tariff barriers should encompass trade in services as well as in goods. In recommending this modernization, we support several other previous commissions and task forces that have sought to enhance the effectiveness of the economic union. However, we are sensitive to the need to balance efficiency in the Canadian economic union with other interests in the federation. We are conscious also of the limitations facing courts in their deliberations on economic matters. The difficulties or limitations are particularly significant in relation to non-tariff barriers where complex economic and political considerations arise simultaneously. In the light of these considerations and of the current uncertainty about the scope and significance of NTBs, we suggest that this aspect of formal constitutional amendment should be preceded by

the development of guidelines in the form of a Code of Economic Conduct. This amendment itself might also take the form of an addition to section 121 to cover non-tariff barriers to goods or to services.

### *A Code of Economic Conduct*

To respond to the challenge of making productive trade-offs between competing values, the governments of Canada should take steps to develop a “Code of Economic Conduct” which will begin to identify the policies and practices that are, and are not, acceptable in the Canadian economic union. For several reasons, however, Commissioners do not propose that this code be incorporated into the Constitution Act. For one, we have reservations about placing further responsibilities on the courts in an area where complex economic and political trade-offs often seem to be required. Many practices that have attracted attention in relation to the economic union fall into grey areas that even a strengthened section 121 cannot easily reach. Allegedly discriminatory government actions often take place at the administrative level or in informal practices not covered by law. These are hard to identify and to monitor through judicial mechanisms. We believe a Code of Economic Conduct could cover these areas more effectively.

Commissioners have emphasized the need for complex and sensitive trade-offs: “barriers” are not black and white. Countries like Australia, with very strong constitutional rules governing the common market, have found governments at both levels frustrated. However wise, judges are ill-equipped to make these trade-offs. They must decide whether a given act is right or wrong: they cannot easily suggest compromises or alterations in the policy. Judges have no mandate to make policy proposals to promote the positive development of the economic union that we believe to be necessary. Nor can courts initiate cases: they can only respond to cases brought before them. In addition, our legal traditions have not emphasized the kind of evidence and analysis that would be relevant to the decision making we foresee.

A Code of Economic Conduct is a relatively new concept. There are many important questions to be explored, and we would need considerable experience to “get it right”. This argues for a cautious and incremental process. In Commissioners’ judgement, it would not only be undesirable to try to write and constitutionalize a code now, but the exercise would almost certainly founder in the constitutional amendment process. A constitutionalized code formulated today would probably include so many opting-out, *non obstante* and exemption clauses that it would perhaps only legitimize what it was designed to prevent. Nor would it be easy to modify and adapt a constitutional code in the light of changing circumstances. Thus we recommend a more informal, negotiated Code of Economic Conduct. The governments of Canada should develop a Code that would spell out the principles of the economic union, begin to identify and describe practices that are and are not acceptable, and provide mechanisms of enforcement. We believe that it would eventually be appropriate to entrench the principles of the Code in the Constitution, although we have concluded that the enforce-



ment of the details of the Code would be carried out most effectively with the assistance of an expert Commission on the Economic Union.

It would not be appropriate for Commissioners to put forward a detailed proposal for a Code of Economic Conduct. Nevertheless, on the basis of our consultations and research, and in the context of our conclusions about development prospects for Canada, we suggest general guidelines for consideration:

- The starting point should be that the “burden of proof” lie with the authority imposing the barrier. Our assumption is in favour of the economic union. Deviations from that model ought to be publicly justified.
- The code should confirm general principles of the economic union applicable to both the federal and provincial governments. These principles should encompass:
  - Reduction of barriers to the movement of capital, labour, goods and services throughout Canada
  - Non-discrimination against persons (individuals and organizations) based on province of residence
  - Commitment to minimizing the costs of provincial programs that might fall on residents of other jurisdictions and to prior consultation for this purpose
  - Recognition of the need for an effective transportation, communications and information infrastructure to provide positive support for national economic development that would confer significant regional benefits.
- The code should also begin to identify the major policy areas where reduction of barriers to internal trade can best be effected. Attention should focus not only on the form of the barriers (procurement, subsidies and so on), but also on the anticipated effects or consequences. Commissioners base this conclusion on our observation that the possibilities for substitution between types of barriers are extensive, and on the great disparities in the size and economic development of the provinces and in their potential to inflict injury on other provinces or their residents. For immediate consideration, we suggest looking at barriers that inhibit the capacity of Canadian enterprises to achieve international competitiveness.

Initially, governments should negotiate the Code, and public and governmental pressure should enforce it. The intergovernmental process (involving, ultimately, the reformed national institutions Commissioners recommend) would provide the appropriate forum for dealing with the politically sensitive issue of internal barriers to trade. After Canadians have gained experience with the operation of the code, we should entrench its principles in the Constitution, and enforce the details of the code itself through some form of binding intergovernmental agreement which an expert commission appointed by federal and provincial governments would enforce.

The principal vehicle both for initiating the development of a Code of Economic Conduct and for implementing it should be a federal-provincial Council of Ministers for Economic Development, established under the umbrella of the First Ministers' Conference. This ministerial council would be assisted by a Federal-Provincial Commission on the Canadian Economic



Union consisting of a group of experts appointed by the Council. The commission would have responsibility for preparing materials for the Council as directed; initiating research to explore the state of the economic union and methods for improving it; receiving complaints from private actors, including groups, individuals and corporations affected by government actions which threaten the economic union; investigating and reporting on such alleged actions, and making recommendations to the public and the ministerial council.

As a start to the process of developing the Code, Commissioners propose the following procedure. The Council would ask the federal and provincial governments to list any barriers imposed by other governments that it believes harm individuals, a provincial economy, or the national economy. Each government would then defend those of its policies so identified. The expert Commission on the Canadian Economic Union would analyse barriers and their justifications, identify violations of the principles of the economic union, and recommend specific contents of the proposed code. The Council of Ministers of Economic Development would proceed to act on this report. Such a process would parallel working methods of the General Agreement on Tariffs and Trade (GATT).

There are several advantages to this procedure. To develop the Code should show governments the character of one another's policies and the mutually destructive effects of barriers that create a situation in which no one actually gains. Practical experience with the Code should lead to further sensitivity in its application. Continual discussion of the issues involved should help to convince governments of the potential advantages of co-operation. Incentives to "cheat", or to introduce new discriminatory policies, should prove less attractive when parties realize that they would be returning to the table time and again to deal with infringements on the Code. Moreover, the Council would provide a forum where the two goals of policing barriers and co-ordinating positive policies would be integrated.

Balancing the economic union against other goals is an essentially political process that should take place in a political forum. Because the policies at issue are those of both orders of government, the appropriate vehicle is an intergovernmental body. For several reasons, however, this body should receive advice from the expert Commission on the Economic Union that Commissioners have proposed. First, much research and investigation remains to be done. This would be best accomplished by a group with particular expertise who are nevertheless closely tied to the political process. The Federal-Provincial Commission on the Economic Union would be made up of independent experts, appointed by the Council of Ministers. Members would not be officials of federal or provincial governments; nor would they act as delegates or representatives. Secondly, the involvement of those whose primary commitment was to explore ways to improve the economic union would introduce to the process participants without vested interests as governments. Their freedom from involvement in government responsibilities should enhance their capacity to "blow the whistle". More important, they would be a group with a strong incentive to search for creative alternatives

and new solutions which governments, sometimes tied to their own bureaucratic interests and client groups, might find it difficult to do.

The commission's role in receiving complaints and conducting enquiries would be fundamental. It would open the process to individuals and groups outside government, and bring their concerns directly to bear on a matter of intergovernmental relations. In this way, impediments to the union could be fully explored. The fact that the commission would report its findings publicly would enhance its accountability. Governments which practice discriminatory policies would be much more regularly subject to the glare of publicity. At a minimum, the arrangement would force governments to justify their activities. Commissioners believe that this circumstance in itself would provide more effective policing than do existing arrangements. If, after a probationary period, the principles were eventually entrenched, the proposed commission could take on a more formal adjudicative role. It could, for example, become a regulatory agency, but one which regulates governments. This would constitute an experiment in administrative law with few precedents in Canada. For that reason, it might be viewed as more appropriate and more consistent with our traditions to have the Supreme Court enforce a formalized code. Commissioners believe, however, that a specialized body is to be preferred, and that such a body would avoid some of the problems with judicial decision making identified earlier.

Finally, Commissioners note that the federal government has a distinctive role to play in safeguarding the economic union. Its role as the national government means that its primary focus must be on the health of the whole, and that it must continually foster the development of positive linkages of all kinds among Canadians. In other sections of this part of our Report, we discuss in more detail how this can be accomplished. Here we simply note some of the instruments available. Conditions in shared-cost programs such as the Canada Assistance Plan or Canada Health Act can ensure portability, accessibility and non-discrimination against residents of other provinces. Such provisions could also be used in other shared-cost programs more directly related to employment, such as training, job creation, and Economic and Regional Development Agreements (ERDAs). Federal assistance to bilingual education and enhancement of its own capabilities to provide French-language services are important means of facilitating mobility. Federal administration of provincial income taxes under the Tax Collection Agreements is also an effective tool. More generally, development of the federal power over interprovincial trade and commerce could help to ensure the effective operation of the economic union. Commissioners turn to these and related economic policy concerns in subsequent sections of this Report.

## Notes

1. For the purposes of our discussion, we refer to trade between provinces and trade within Canada involving Yukon and the Northwest Territories as 'interprovincial'.
2. John Whalley, "Induced Distortions of Interprovincial Activity: An Overview of Issues", in *Federalism and the Canadian Economic Union*, edited by Michael J. Trebilcock *et al.* (Toronto: University of Toronto Press for Ontario Economic Council, 1983), p. 175.

3. Canada, Royal Commission on Dominion-Provincial Relations, *Report*, Book II, *Recommendations* (Ottawa: King's Printer, 1937), p. 62.
4. *Murphy v. C.P.R.* [1958] S.C.R. 626, 15 D.L.R. (2d) 145.
5. For a more extensive survey, see John Whalley, *Regional Aspects of Confederation*, vol. 68, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).
6. John Whalley, "The Impact of Federal Policies on Interprovincial Activity", in *Federalism and the Canadian Economic Union*, edited by Michael J. Trebilcock *et al.* (Toronto: University of Toronto Press for Ontario Economic Council, 1983), pp. 211-13.
7. Canada, Supply and Services Canada, *Supply Policy Manual*, Directive #3052, December 30, 1983, pp. 7, 9.
8. See Whalley, "Induced Distortions of Interprovincial Activity".
9. Wayne R. Thirsk, "Interprovincial Trade and the Welfare Effects of Marketing Boards", in *Perspectives on the Canadian Economic Union*, vol. 60 (Toronto: University of Toronto Press, 1985).
10. Canadian Manufacturers' Association, "Interprovincial Trade Restrictions", a CMA Position Statement (Toronto, 1984).
11. See Philip Mathias, *Forced Growth* (Toronto: James Lorimer, 1971), for case studies of unproductive projects induced by special incentives.
12. An Act respecting stock saving plans and to amend again the Taxation Act and to amend the Securities Act, S.Q. 1979, chapter 14, as amended.
13. These and the following figures are drawn from Statistics Canada, *Current Demographic Analysis: Report on the Demographic Situation in Canada, 1983*, by Jean Dumas (Ottawa: Minister of Supply and Services Canada, 1984), pp. 46 ff.
14. See *Winner v. S.M.T. (Eastern) Ltd.* [1951] S.C.R. 887, 919 (S.C.C.)
15. A fuller treatment of these questions is provided in Michael J. Trebilcock, John Whalley, Carol Rogerson, and Ian Ness, "Provincially Induced Barriers to Trade in Canada: A Survey", in *Federalism and the Canadian Economic Union*, edited by Michael J. Trebilcock *et al.* (Toronto: University of Toronto Press for Ontario Economic Council, 1983), pp. 243-351.
16. *Ibid.*, p. 273.
17. The treaty establishing the European Economic Community, executed in Rome, March 25, 1957.
18. A.E. Safarian, *Canadian Federalism and Economic Integration* (Ottawa, Information Canada, 1974), pp. 58-73.
19. *Attorney General of Canada v. Canadian National Transportation Ltd.* (1983), 3 D.L.R. (4th) 16 (S.C.C.)
20. F.J. Chambers, "Internal Constraints in the Evolution of International Economic Policy for Canada", in *Selected Problems in Formulating Foreign Economic Policy*, vol. 30 (Toronto: University of Toronto Press, 1985).



## Economic Management and Federalism

The Canadian economic union consists of far more than the essentially negative role of government presented in Commissioners' discussion of internal trade barriers. Governments discharge a variety of functions in managing the economy. The regional character of the Canadian economy and the distribution of powers in the Constitution decide which governments exercise these functions and the values and goals which they pursue. How have the federal dimensions of our society and our institutions affected the ability of the Canadian state to manage the economy and to promote sustained economic performance? How do we reconcile the realities of divided and shared authority with the economic and social needs of the country and its regions? Do we foresee economic challenges that will require us to modify the institutions and practices of federalism?

This Commission has concluded that the international environment will press ever closer on Canadians, increasing competition and creating major issues of adjustment for workers, firms, sectors, and regions. The emergence of an ever-wider range of claims for rights, many of them for economic entitlements, may introduce new constraints on the formation of economic policy.

Commissioners have also identified some basic policy directions which we believe essential to Canadian success in an interdependent world. We wish to secure Canada access to the world economy and to project Canadian interests more vigorously. We emphasize the overwhelming imperative of continuing adjustment, which will require flexibility, innovation and adaptability throughout the economy. Canadians, we believe, must rely on the incentives and disciplines of the market more fully than in the past, placing less weight on some forms of government intervention, especially in the allocation of scarce resources to productive tasks. Commissioners emphasize also the necessity for effective social policies to cushion the costs of adjustment for individuals and to equip Canadians better to take advantage of new opportunities.

Macro-economic policies are essential for providing a more stable framework within which individual enterprises can grow. Industrial policy must facilitate adjustment and adaptation, through responsive systems of education and training, financial and labour markets, and technological innovation. Canadians must moderate and contain the inevitable political pressures that have too often made industrial policy a process that obstructs, rather than facilitates, change. Thus the long-standing governmental roles of allocation and stabilization remain. So, too, does the traditional concern with distribution, not only among groups identified by class, age or sex, but also among those bounded by region and province. In a period of rapid change and uncertainty, the ways that Canadians share the burdens and benefits of adjustment are a fundamental political issue.

Newer responsibilities are likely to add to the importance of Canadian governments. International forces will require more effective articulation of Canadian national interests abroad. Meanwhile, we shall have to work harder to manage the domestic effects of international developments. Governments



will also face greater pressures to accommodate the social divisions attendant on the increased complexity of industrial society. In the face of a society at once more fragmented internally and more open internationally, Commissioners believe that governments ought to try to reinforce Canadians' sense of national community and of the mutual obligations that are the counterpart of the rights of citizenship.

Canadians can pursue these political, social and economic ends through our federal and provincial governments as they work individually in their own areas of jurisdiction and co-operatively in areas of co-ordinated action. Policy debates within federalism are simultaneously debates about what should be done and who should do it. Increasingly, too, they have become debates about how both orders of government can exercise their formal power in such a way as to increase policy coherence and reduce the costs of duplication of services.

## **Federalism and the Economy: The Record**

How well equipped are we Canadians to adapt federalism to present and future challenges? We can find part of the answer in the record of the past. During the Depression and into the post-Second World War period, many observers considered that federalism was perhaps an obsolete institution, and that it was certainly an impediment to the ability of the state to respond to major new concerns in the modern industrial economy. The failure to cope with the massive dislocations of the Depression era seemed proof enough of the validity of their view.

First, critics argued, federalism emphasized territorially based communities and cultural differences; it seemed at odds with the modernizing trends then eroding the significance of such differences, stressing national values and cultures over local ones, and focusing political divisions on economic, rather than territorial, distinctions. Secondly, changes in economic organization, notably the development of large corporations operating nationally – and, to an ever greater extent, internationally – exceeded the capacity of small political units to ensure that they served the public interest. Thirdly, and most important, the new functions of government both in managing the economy and in building the welfare state seemed to require centralization. The new emphasis on stabilization policy, for example, implied to some analysts that fiscal powers should rest in the hands of one political authority, rather than be dispersed among many. The welfare state, with its ideal of national standards, seemed to imply a similar need for concentration; only the federal government could mobilize sufficient resources to overcome the disparities in the capacities of provincial governments to assume responsibilities in the welfare field. Only the federal government, many concluded, could act as an effective redistributor among persons and regions.

The experience of the 1930s convinced many Canadians that the rigidities of our federal system made government incapable of undertaking these new tasks. Much of the criticism was directed at the courts, which struck down innovative government efforts – such as Prime Minister R.B. Bennett's 1935 New Deal – to respond to the new needs. Others accused the provinces of

using federalism as a screen for the parochialism of leaders and the defence of vested interests. There were calls for fundamental constitutional revision to reform federalism.

And reform it we did, but in ways which were essentially faithful to the spirit of federalism and to the retention of regional identities and interests. The 1945 White Paper on Employment and Income<sup>1</sup> enunciated Ottawa's fundamental commitment to stabilization and demand management, and to an open international economic order; it established the federal government's dominant position in economic management. The relative centralization of post-war fiscal arrangements underlined this position. Through constitutional amendment—as with Unemployment Insurance in 1940 and Old Age Pensions in 1951, or through use of the spending power, as with Family Allowances, as well as through the development of shared-cost programs in health, social welfare and other fields, the federal government established its predominant role in the Canadian social security system. Through equalization and, later, through regional development programs, the federal government extended its responsibility for interregional redistribution.

Despite the growth of federal responsibilities, the provinces have also been principal actors in many areas of vital importance for economic management, such as education, health, social services, occupational health and safety, and labour/management relations. Provincial governments often acted imaginatively and effectively to meet new needs. They developed schools, universities and hospitals, and the infrastructure necessary to support the huge growth of cities and suburbs. Throughout much of the post-war period provincial revenues and expenditures grew at a much faster rate than those of the federal government. Thus governments grew at both levels.

Much of what we did involved a creative blending of federal initiative and financial support with provincial administration. This development allowed provincial governments considerable freedom to respond within the framework of broad conditions established by the federal government to maintain national standards. The shared-cost program was the hallmark of this co-operative federalism.

Economic management and administration of welfare affected the character of Canadian federalism. At the same time, the federal dimensions of the Canadian state powerfully influenced the ways in which we undertook these new tasks. We proved that with minimal formal change we could adapt the practice of federalism and achieve great flexibility in the use of the institutions we inherited.

In the 1960s, federal-provincial collaboration became more complex. We saw a continuation of federal initiatives—in regional development, in the Canada Pension Plan, enacted in 1965, and in medicare, initiated in 1968; all of these steps required provincial co-operation. Provinces, having acquired greater strength and self-confidence, bargained for bigger shares of fiscal resources and became more active in economic and social development. This was especially true of Quebec, where the reforms of the Quiet Revolution led the provincial government to organize many of the major social and economic functions of government around the provincial state. Quebec opted out of a number of shared-cost programs by means of the Established Programs

(Interim Arrangements) Act and established its own contributory pension plan.

By the 1970s, several developments had strained federal-provincial collaboration in economic and social management. The economic difficulties of those years called into question the effectiveness of post-Second World War techniques of economic management. The widespread consensus among citizens and governments about the policies began to erode. Much of this growing dissension expressed itself through rival economic policies; effective co-ordination became at once more important and more difficult to achieve. Provincial and federal governments began to search for new approaches, developing more comprehensive industrial policies and making more aggressive use of subsidies, procurement policies, public enterprise and other instruments.

These developments exacerbated regional divisions, muted during the Second World War and the early post-war period, which re-emerged forcefully in Quebec after 1960, and in the West after 1970. In the 1970s, there was renewed concern with the persistence of regional disparities, which had not disappeared with aggregate national growth in the late 1950s. Regional differences in economic matters reached their apex in the interregional and federal-provincial battles over energy. These shaped the pattern of conflict in the federation and foreshadowed much of the subsequent constitutional crisis.

Increased provincial activity in economic management, dubbed "province-building", was not a new phenomenon. Dynamic provincialism had emerged in the late nineteenth century, especially in the recessions of 1874–79 and 1886–96, when the promised benefits of Confederation were slow to materialize. As central Canada industrialized in the early twentieth century, many of the essential underpinnings of development—roads and urban services, for example—were provincial responsibilities. Provincial ownership of resources (extended to Alberta, Saskatchewan and Manitoba only in 1930) acted as a further basis for provincial activism: hydro-electric power developed under provincial ownership, and the provinces promoted the processing of resources. In the 1930s, as Canadians sought answers to the crisis of the Depression, several provinces experimented with new forms of economic policy and political organization. Social Credit in Alberta and the Co-operative Commonwealth Federation (CCF) in Saskatchewan were prime examples. These experiments produced conflicting programs and federal-provincial tensions, many of which ended up in the courts. In all of them, federal and provincial governments tended to advocate the interests of different groups and industries. All had involved both conflict over federal and provincial jurisdiction, and regional grievances about the exercise of federal powers.

The province building of the 1960s and 1970s had similar sources. Provincial governments sought to diversify their economies to mitigate the "boom-and-bust" cycles associated with economies based on world trade in natural resources, and to provide a wider range of economic opportunities for their inhabitants. During the Quiet Revolution, Québécois sought to use an activist provincial state to redress the historic under-representation of



francophones in the ownership and management of the provincial economy. The instruments that they used included *Hydro-Québec*, the *Caisse de dépôts et placements*, the *Société générale de financement*, and sweeping reforms to the education system. In many respects these efforts proved successful. The growth of the private sector which they encouraged later helped to create and sustain a more self-confident, aggressive, francophone private sector, which has become an innovative force in the Canadian economy.

In the West, notably in Alberta and Saskatchewan, shifting international terms of trade propelled the province-building drive. The new situation opened the possibility of bringing about a permanent shift in economic power, which would reduce the historic dependence of the West on external economic and political forces. Resource development complemented the historic sense of grievance. As in Quebec, province building in the West presupposed a high degree of confidence in the ability of citizens, through their governments, to alter their economic circumstances.

Province building, in both its political and economic dimensions, has been one of the most striking recent features of Canadian federalism. The reverse side of the coin has been a high level of federal-provincial conflict. Yet we should not exaggerate the significance of province building. Federal fiscal, monetary and tariff policies remained critical determinants of regional, as well as national, economic development. The federal government continued to be responsible for the great proportion of industrial development expenditures. Moreover, while all provinces became more active in economic development, only a few had either the inclination or the capacity to pursue ambitious development "strategies". For many provinces, regional development could be achieved only with extensive federal participation.

As a result of expansion of activity by both levels of government, interdependence among governments increased significantly. As each level responded to new concerns, using whatever constitutional levers were available, policies were intermingled. The situation became less compatible with the classic "watertight compartments" model of the division of powers. The contemporary categories within which we thought of economic and social policy were rarely congruent with the categories set out in the British North America Act.

Each order of government found that to achieve its goals it needed to take account of resources and instruments belonging to the other. The process of "intrusion" worked both ways. Policies at one level often spilled over to affect policies at the other. In addition, the expansion of government responsibilities for economic well-being sharpened the concern with "fairness" in the federal system because Canadians increasingly perceived distributional outcomes as the products of government policies, for which governments should be held accountable, rather than as the products of impersonal and uncontrollable market forces.

## **Federalism and Economic Management**

The challenges that federalism produces for economic management arise at two levels. The first focuses on the regionalized nature of our economy and



society. Virtually every national economic problem is simultaneously a regional problem. Regional needs and interests will differ; policies well suited to the needs of one region may well be unsuitable for others. This would be true even if Canada were a unitary state. The regional constraints on federal economic policy making come not only from provincial governments, but also from the interests of regions as articulated by their representatives in the federal caucuses and the Cabinet.

Federal institutions themselves are also the source of economic management concerns: the interests and policies of the two orders of government, the division of powers between them, and the means through which they interact. Each government responds to a different set of constituencies, and thus is likely to articulate different economic concerns and different responses to them. The existence of ten provincial governments probably accentuates natural regional differences. This division tends to shape discussion of economic policy into a "regional" mould, minimizing or blurring issues defined in alternative ways.

Further complicating economic management is the fact that the two orders of government divide or share the levers or instruments for policy making. The Constitution Act, 1867 created this overlap, but the change in our views of economic management has accentuated the complexity of the situation. Both orders can claim a wide range of powers to justify policy initiatives. The federal government has the broadest range of economic powers: the power to levy both direct and indirect taxes; control over currency and banking, interprovincial and international trade and commerce, and interprovincial transportation; and the general powers under "Peace, Order, and good Government". But the courts have consistently refused to grant plenary economic powers to the federal government, and have instead sought to ensure the integrity of the provincial powers. The courts have ruled that broad interpretation of such ideas as "inherent national concern" and "general trade" would potentially embrace such broad scope that "provincial jurisdiction based on property and civil rights, regulation of the local social environment, and the administration of justice would not survive except in radically diminished form". The courts have been wary of permitting any "unbalancing extensions" to federal constitutional powers related to the economy.<sup>2</sup>

There are many alleged consequences of this state of affairs. Some say that federalism unduly complicates the process of policy making. Decision-making costs increase, as 11 sets of political authorities must co-ordinate their activities. The result in shared fields often seems to be immobility and indecisiveness; substantial policy change often seems to require a high degree of consensus or a massive exertion of political will. Citizens who seek responses and decisions from governments face a complex process and must put up with the duplication, uncertainties and delays of divided jurisdiction. Governments must devote considerable effort to working with one another, and may have greater difficulty responding to demands for consultation with interest groups whose interests are expressed in non-territorial terms. Federalism seems to be the enemy of policy that is planned, comprehensive, coherent, uniform and consistent.

This list of the costs of the federal system might lead to a prescription for sweeping centralization under the unifying hand of a strong central government. But Commissioners disagree that such a prescription is required. First, as the Rowell-Sirois Royal Commission on Dominion-Provincial Relations emphasized when it confronted the same question, it is contrary to the respect for provincial diversity that is inherent in federalism. Secondly, it is not only the existence of two orders of government that makes economic management complex; it is also the existence of underlying economic and social differences among regions, which would confront a unitary government as much as a federal one. Indeed, the centrifugal pressures associated with federalism are only one aspect of the larger centrifugalism in our political institutions. Even within the federal government, economic policy makers have different viewpoints, represented by different departments and agencies, each oriented to its own set of policy objectives. Hence there is little reason to assume that coherent planning would result from centralization alone.

Modern governments face an almost impossible range of demands. The "reach" of the state has in many ways outrun both our administrative and technical capacities, and our capacity to ensure democratic accountability. One approach to minimizing this problem is to try to limit the range of state interventions: to encourage the state to do less, but to do it better. Another is to recognize the advantages of sharing power and responsibilities among governments. No one government has to try to do everything, or to be responsible for everything. No one set of institutions has to be the focus for all the demands and expectations of citizens, or to try to resolve all the divisions and conflicts of society. In a country as diverse as Canada, centralization would be a recipe for paralysis.

Federalism, then, offers some major advantages for economic management: it is not simply a problem to be overcome as best we may; it is a strength. It provides greater stability by diffusing conflict and expectations throughout the system. It offers the opportunity to tailor economic policies to the specific needs and concerns of citizens and groups in different parts of the country. It minimizes the ever-present danger of the spectacular failure that can result when all the eggs are put in one basket. In a world of uncertainty and rapidly shifting economic challenges, where there is little understanding of what is likely to work best, it provides the opportunity for experiment and learning, for flexibility and inventiveness. It enhances sensitivity to different viewpoints and permits canvassing of multiple sources of information and intelligence in different settings. We can try different models for improving labour relations, for integrating education and training, for stimulating the flow of investment, and for diffusing technology. Indeed, economic development in federations is likely to exceed that in centralized states as a result of the beneficial effects of competition in the public sector.

## **Federal and Provincial Roles**

These considerations shape Commissioners' views about improving on Canada's record of economic management in the federal system. The challenge is to get the greatest benefit from the diversity that federalism

encourages, while at the same time seeking to overcome or reduce the effect of the inevitable tensions and complexities that federalism engenders.

We must all recognize that both federal and provincial governments have legitimate and important functions in managing the economy, and that these functions are not identical: there is a real division of labour between the two orders of government, partly as a result of our constitutional tradition and partly as a result of our needs. The federal government must concern itself first and foremost with the needs of the whole national economy. This responsibility derives both from its political mandate as the only government elected by all Canadians and also from its powers and resources. The provincial governments, in turn, will focus on the needs of their own economies.

First, the federal government is, and must be, primarily responsible for Canada's presence in the international world, and for mediating between that world and domestic economic and political life. This requires a predominant federal role in the negotiation and ratification of treaties, in co-ordinating federal and provincial activities abroad, and in managing the domestic adjustments that follow from international activities. Secondly, the federal government must be the advocate and catalyst for the effective functioning of the economic union. It must minimize the effects of federal and provincial barriers to interprovincial trade, and maximize the benefits of the economic union. Thirdly, the federal government is primarily responsible for stabilization policy. Fourthly, the federal government is primarily responsible for redistribution between regions and provinces, between social and economic interests, and among individual citizens.

Thus the federal task is to provide a unified national framework for private economic activity and provincial initiatives to encourage economic development. The federal government also has an immediate and direct role in the lives of citizens. In its various functions, the federal government must be sensitive to the effects of its policies on various regions, and to the necessity of balancing and reconciling regional preferences. The forces demanding change may be national in character, or even global, but individual citizens, living in particular places and conscious of their own needs and concerns, must cope with the effects of change, and the federal government must help them to do so.

Commissioners' view does not imply that in all these areas the federal government need have a monopoly. We use advisedly such words as "predominant". In most of these areas, provinces, too, have a role. To the extent that international obligations require implementation within areas of provincial jurisdiction, provinces must concern themselves with the international domain. The very scale of provincial taxing and spending, along with the interdependence of federal and provincial fiscal systems, means that they must be involved in stabilization policy. Provincial preferences with respect to social policy supplement and modify federal activity in redistribution. And since legitimate provincial activities in response to local preferences account for many of the provincially induced barriers to trade, the provinces must participate in negotiating and implementing codes of conduct concerning the economic union.



Similarly, the provinces in their own right have important functions relating to economic development. Their political base requires them to concern themselves with the economic well-being of their region, as do the powers allocated to them under section 92 and other parts of the Constitution Act, 1867. Many of these powers and responsibilities appear vital to satisfactory economic performance in the future.

Just as federal activity in management of the economy does not preclude provincial involvement, so there is, and must be, an awareness of the national interest in the conduct of many of these provincial responsibilities. The federal government can provide this element in a variety of ways. The courts could broaden the general economic powers already allocated to the federal government, notably trade and commerce, "Peace, Order, and good Government", and the power to enact criminal law. Canadian courts have not followed the American example and defined these powers as plenary ones, which would confine provincial legislation to those areas in which the federal government has chosen not to act. In Canada the courts have conditioned, restricted or frustrated sweeping assertions of federal economic powers. Constitutional amendment is an alternative means to extend the federal role, as occurred with unemployment insurance in 1940. But, as we have seen, we have used this device rarely, especially in the field of economic powers.

The federal government can use co-operative action for the same purpose, especially through its spending power. It can set up various contractual arrangements, such as purchase of specific "places" for training purposes in provincial technical colleges. The network of such arrangements is now immense.

Finally, the federal government, through its own activities within its own jurisdiction, can set a tone, establish priorities and promote new ideas or approaches. Thus highly visible consultation, the conduct of research and publicity on an issue such as forest management, and use of the public forum provided by a parliamentary committee can provide economic leadership that alters the climate of ideas within which both orders of government act. The federal government can act as catalyst and innovator without designing and delivering programs.

Transcending all these considerations of powers and mechanisms is the need for a common sense among all Canadians about what we want governments to do. If, through the recommendations that Commissioners have made in previous chapters, we have been able to clarify that point, the requisite adaptations of the institutions of federalism should follow. The words of Samuel Beer, a leading student of American federalism, apply also to Canada: "The lesson of the future is that role follows purpose. If we are to design a new federalism, we must first restore our sense of national direction."<sup>3</sup>

Within this broad conception of a division of responsibilities among governments, Commissioners approach specific issues from a functional problem-oriented perspective. We believe that effective economic management is, in general, much more than a matter of making the appropriate division of constitutional authority. Contemporary decision making requires the co-operation of numerous actors, both public and private. No one can



force that co-operation except within very narrow limits. Hence we must have institutions that reflect diverse viewpoints, give them access to the decision-making process, and work out accommodations among them.

Commissioners do not minimize the realities of federal-provincial conflict over economic management. We believe, however, that it is essential to qualify interpretations of federalism and economic management that emphasize conflicts. While some governments have been more interventionist and others less so, all are part of, and responsive to, the same broad domestic and international climate. There are a great many areas of common interest. The performance of the national economy is essential to the performance of each provincial economy. Each province, therefore, has a positive interest in co-operating with the federal government in order to manage overall growth successfully. At the same time, overall national development depends on the economic performance of the provinces, for the provinces are essential participants in the process of national economic growth.

We can also learn from experience. By the early 1980s, it had become clear to all participants that the hostility and confrontation over energy and other issues had gone too far. The resulting climate of uncertainty and confusion was harming investment and confidence. Governments have reacted, and now appear willing to seek more co-operative relationships in economic management.

## **Economic Management for the Future**

In previous chapters, this Commission has spelled out its goals for economic and social policy. It is time to recapitulate these objectives and to show how we propose to achieve them within the context of the Canadian federal system. How will federalism affect our ability to achieve these goals? How, in turn, might their achievement affect our practice of federalism in the future? In some areas we shall suggest changes in the operation of the federal system so as better to achieve the objectives we seek; in a few others we shall temper and modify the objectives in the light of values and concerns intrinsic to Canada's federal and regional character.

## ***Federalism and Canada's International Stance***

There is no alternative to making our way in the open and competitive international environment, but the necessity of doing so also presents us with unparalleled opportunities. Specifically, Commissioners have urged Canadians to seek freer trade with the United States and to continue to extend multilateral free trade. More generally, we have urged Canadians to accept a more activist international stance on a wide range of issues.

Does the structure of powers within Canadian federalism inhibit or impede our ability to achieve these objectives? Does it affect our ability to make the necessary adaptations and adjustments at home? To answer these questions we must explore some features of the division of powers with respect to foreign affairs, especially within the economic sphere. We do indeed have

some serious lacks in our institutional armoury which, if not supplied, may seriously weaken our effectiveness.

Section 132 of the Constitution Act, 1867 dealt with the management of Canada's external relations at Confederation:

*The Parliament and Government of Canada shall have all Powers necessary or proper for performing the Obligations of Canada or of any Province thereof, as Part of the British Empire, towards Foreign Countries, arising under Treaties between the Empire and such Foreign Countries.*

The treaty-making power itself remained with the British Parliament at Westminster. This arrangement reflected the way that most Canadians saw themselves at the time: as citizens of the wider British Empire, rather than as possessors of a distinctive Canadian nationality. As a result, our Constitution included no clearly considered treaty power compatible with the existence of a federal state.

As Canada matured as an independent country, it became increasingly plain that diplomatic representation by another country, however friendly or experienced, could not secure Canadian interests. Our participation in the First World War showed us and our Allies that Canada was a distinct political community, and that we Canadians should be able to conduct external relations for ourselves. The aspiration for independence became a legal reality with passage of the Statute of Westminster in 1931.

From that point on, Canada was a sovereign state for purposes of international law, and the Government of Canada had the right to represent the nation on the international stage. Federal leaders believed that this authority extended to the negotiation and implementation of treaties. In the *Labour Conventions Case* (1937), however, the Judicial Committee of the Privy Council, then Canada's highest court, held that the federal power to implement treaties referred only to those matters that fell within federal jurisdiction under section 91 of the Constitution Act, 1867. The federal mandate did not extend to the acceptance or enforcement of obligations within provincial jurisdiction under section 92. Thus the division of powers prevented the Parliament of Canada from enacting a law to carry out an international treaty on a matter within provincial competence.

In the intervening half-century, Canada has adopted an increasingly active role in the international scene, entering into a large number of treaties covering a wide range of subjects. Nonetheless, recognizing the limitations on its ability to implement at home some aspects of undertakings to which it might commit itself abroad, the Government of Canada has been hesitant to assume international obligations that require provincial legislative action.

As long as international trade relations focused primarily on the tariff, a matter clearly under federal jurisdiction, the *Labour Conventions Case* did not prove a major constraint on Canadian participation in forums such as the General Agreement on Tariffs and Trade (GATT). However, as these international discussions have come to focus more and more on non-tariff barriers such as subsidies, discriminatory purchasing policies, and product standards designed to exclude competition, the constraint has become a great

deal more serious. Many of the practices addressed in these discussions fall within provincial jurisdiction.

International law largely assumes the existence of unitary sovereign states; it has little sympathy with, or understanding of, the sharing of power within those states. A number of international agreements contain "federal state" clauses, in which the federal state commits itself to its best efforts to secure compliance from sub-national governments, while the other states involved acknowledge the limits imposed by federal constitutions. Still, such clauses clearly do not solve the problem. Unless the negotiating parties in international negotiations can fully commit their own countries to abide by the agreements signed, they will have only limited ability to secure concessions. Informal undertakings made by provinces or states to comply with negotiated international agreements will not solve the problem. The Tokyo Round of the GATT negotiations saw discussion of the pricing policies of Canadian provinces on imported wine and spirits. Ontario signed a "statement of intent" committing itself to a change in policies, but under pressure from domestic producers, it soon found ways to circumvent the agreement, claiming that the statement of intent was not legally enforceable.

This constitutional gap in the treaty-making power promises to cause increasing problems for Canada in the future, significantly hampering our ability to work out effective agreements and constraining our full participation in the international community. In Commissioners' view, the federal government is, and must remain, the principal representative of Canada abroad. It is the Government of Canada that must negotiate treaties. Nevertheless, this broad federal power must recognize the reality of the federal division of powers within the Constitution. This is why Commissioners reject the notion of granting unrestricted authority to the federal government to conclude and enforce implementation of any treaties that contain provisions lying outside federal jurisdiction.

We must seek a procedure whereby treaties, once concluded, are binding and enforceable on both federal and provincial authorities within Canada. That necessity, in turn, requires the involvement of provincial governments. We must distinguish two stages in this process: negotiation and implementation. Again, Commissioners turn to trade for an example. During the Tokyo Round negotiations, there emerged a very successful procedure to involve provinces in the adoption of Canada's negotiating position. This procedure permitted formulation of trade-offs among the complex interests of different regions. The federal negotiators became fully aware of provincial concerns, and provincial governments became more familiar with the larger issues. Canadian negotiators could then carry on discussions with representatives of other countries without fear of provoking conflict at home.

Commissioners believe, as we said in Part II, that a consultation procedure of this type should become a regular feature of Canadian international negotiations, especially those pertaining to free trade with the United States. If provincial consultation at the negotiating stage works successfully, it should ensure that any resulting treaty will receive provincial support. Federal-provincial consultation should also extend to co-ordination of treaty implementation.



Provincial representatives may appropriately be members of the Canadian bargaining team itself in some instances, especially when the main issues fall under provincial jurisdiction. It is vital, however, that Canada be able to speak with a single voice in any discussions, and therefore that domestic disagreements be resolved early. Commissioners believe that informal consultation will be sufficient for the process that we have set out for movement toward freer trade with the United States. It is unnecessary to complicate this process with a simultaneous debate about the Constitution and the division of powers with respect to treaty-making, ratification and implementation.

For the longer run, however, Commissioners believe it essential to give serious consideration to resolving the constitutional situation. International forces will press even harder against our institutional capacities and will challenge our constitutional values. In Commissioners' discussion of national institutions, we noted the necessity of helping Parliament to hold the executive accountable for its conduct of international affairs and, accordingly, recommended that the practice of parliamentary ratification of international treaties be securely established.

Commissioners now extend this principle to encompass federalism. In situations where a proposed treaty imposes obligations on provinces that lie within areas of provincial jurisdiction, provincial legislatures should approve the relevant sections. Two possible mechanisms suggest themselves; a general constitutional amendment concerning treaty ratification could embody either one. On the one hand, provinces could accede to treaty provisions individually. The relevant provisions would come into effect in a particular province only when ratified by its legislature. This method has a serious flaw: an international agreement made by Canadian negotiators might have effect in some provinces but not in others. The result would almost certainly prove confusing and unacceptable, and it could mean that a small number of provinces could vitiate the benefits of a particular arrangement for the whole country.

On the other hand, as Commissioners set out in Part II, the constitutional amendment formula could come into play. Sections of a treaty imposing obligations on provinces would come into effect on the passage of resolutions in the legislatures of two-thirds of the provinces, representing at least half the Canadian population. Some observers might object that this solution might involve an undesirable restriction on the federal government's ability to negotiate for Canada abroad. Commissioners would reply, however, that the federal government does not now have the power to implement provisions of treaties within provincial jurisdiction, and that provincial agreement to an amendment giving unrestricted authority in this field to the Government of Canada is virtually inconceivable. We note, also, that this formal recognition of the provincial role in ratification carries with it the benefit that it can facilitate the enforcement of a treaty. Once implemented in this way, commitments made by the central government would be the law of Canada. The provinces would be under obligation to adhere to the terms of such agreements and could be challenged at law if they did not. We believe that



the procedure represents the best compromise between the imperative of effective participation in international discussions and the imperative of respecting the federal Constitution.

There is further uncertainty surrounding the treaty-making power. Can provinces themselves conduct international activities? At least one province has argued that provinces have the same legal power to conclude treaties under section 92 of the Constitution Act, 1867 as the federal government has under section 91. The argument is far from conclusive. Nevertheless, in the past 25 years, provincial activities outside Canada have proliferated, ranging from formal and informal agreements, to representation abroad, to membership in international organizations. For a number of years Quebec has had a Department of External Trade, and it recently split its Ministry of Intergovernmental Affairs into a Canadian section and a Ministry of International Relations. In February 1985, British Columbia created a Ministry of International Trade and Development, and international trade matters are an important focus of ministries of industry, development and trade in several other provinces.

Provincial international activities take many forms. Perhaps the most contentious have involved Quebec's desire to establish an international presence in accordance with its perception of itself as a distinct national community and the primary representative of francophones in Canada. In the 1960s and 1970s, a large number of well-publicized disputes took place in which Quebec sought agreements with countries such as France and Belgium and representation on organizations related to *la francophonie*. The federal government took the position that all such activities must operate under the federal umbrella; Quebec took the position that it had its own independent authority to conclude agreements.

Commissioners believe that it is possible to reconcile these competing positions. One model that might produce reconciliation takes the form of successive agreements between the government of Quebec and the federal government about immigration. Through these agreements, Quebec has received a direct voice in the selection of immigrants, in recognition of its special concern with the linguistic make-up of its population. Under this arrangement, Quebec immigration officials have joined Canadian immigration offices abroad. At the same time, the federal government has retained ultimate authority for selection of immigrants, for establishing levels, and for undertaking similar responsibilities. It should be possible to work out agreements in other fields, whereby, on matters affecting the French language, francophone culture and education, and civil law, Quebec would have the right to conduct discussions with other countries, to acquire direct representation in some international organizations, and to supply members to Canadian delegations.

Other provincial activities abroad pose less difficult political problems. Most fall into two categories: trade promotion and the management of relations with contiguous American states. The tradition of provincial offices abroad dates back to 1868, when Ontario and New Brunswick set up offices in London. Today, provincial governments maintain about 40 offices abroad,

most created since the 1960s. About half of these offices are in the United States, though no province has yet opened an office in Washington. They primarily promote trade and seek investment, though on occasion, they have had more political responsibilities, as when they participated in lobbying in London concerning the federal constitutional initiative of 1980. In addition, provincial governments frequently conduct trade missions abroad.

Such promotional activities have some potential for damaging Canadian interests. They can carry provincial competition for markets and investment into the international arena, although the regional specialization of the Canadian economy is likely to limit this result. They also permit Canada to project a discordant voice abroad, thus undermining our bargaining power. In this Commission's view, however, trade promotion abroad is a natural extension of provincial economic responsibilities at home. As long as the provinces are merely promoting themselves, they are little threat to the integrity of Canada's national interest. Indeed, there is much room for greater federal-provincial and interprovincial co-operation here; the regional expertise of provincial governments can support federal government efforts, and provinces can use the international skills and resources of Canadian trade officials. Interprovincial co-operation is also possible. At this point, then, Commissioners recommend that the federal government monitor and keep informed of provincial activity, without exercising direct control. Responsibility for international trade gives the federal government a clear mandate to regulate and, if necessary, to override external economic activities, undertaken by the provinces, which involve formal agreements with other states or the creation of state-to-state trading relationships. \*

Finally, the long border between Canada and the United States creates a host of relationships between American states and Canadian provinces. A 1974 study<sup>4</sup> by the State Department of the United States found 766 existing state-provincial agreements or understandings. A study published in 1978<sup>5</sup> found that British Columbia was involved in 649 different interactions with both federal and state governments in the United States. Meetings between Premiers and state Governors have become regular events, among them such gatherings as the annual Conference of Eastern Premiers and New England State Governors. Recently, states bordering on the Great Lakes agreed with Quebec and Ontario concerning water diversion from the Great Lakes Basin. Most such interactions involve limited co-operation on mutual problems and pose few questions about Canadian sovereignty. Commissioners are of the opinion, however, that it should be the responsibility of provinces to inform the federal Department of External Affairs about any such agreements, and that the Department should establish procedures for monitoring such undertakings.

### *Domestic Economic Management*

Earlier in this Report Commissioners emphasized the greatly expanded role that government has performed since the end of the Second World War, a development common to all major industrialized countries in the Western world. While many taxpayers appear to consider that government has

overextended itself, few hark back to the 19th century as the “good old days”. Today we have a mixed economy in which the invisible hand of the market is still very powerful; but it is not the only hand. Governments do help to manage or give direction to economic activity although the free-enterprise system is self-regulating to a considerable extent.

Continued specialization in economic activity, with its counterpart of increasing interdependence on both a national and a global scale, has meant that decision making has become an intricate and complex process in the private and public sectors. Entanglement and overlapping activities are inevitable; there can be no turning back of the clock.

A central theme of this Report is that relative to current practice, governments should rely more on market forces and less on intervention designed either to frustrate or to anticipate those forces. Commissioners’ recommendation for extending the process of international trade liberalization reflects this theme. So, too, does our proposed industrial policy, concerning which we indicate that a targeted approach is unlikely to be more effective than a market-oriented set of broad framework policies. This theme of market competition does not, however, offer a panacea for management of the economy. Governments must still set the rules of the game, both domestically and internationally. Specialization and interdependence will no doubt intensify with technological change, “networking” all economic players, both private and public, into a tighter and tighter web.

This development need not be at all ominous, as long as well-developed lines of communication are in use, and as long as the competition for Canada’s human, capital and natural resources results in their employment in highly valued activities. Nevertheless, governments face some very difficult trade-offs. Regional diversity in Canada, for example, makes consensus building an extremely protracted process. Sectors of the economy have regional dimensions which appear to pull in opposite directions, towards protectionism, on the one hand, and freer trade on the other. The federal government, in forging national policies, must recognize these divergent regional interests. At the same time, it must give consistent policy signals to the larger international community, on which 30 per cent of Canada’s gross national product depends.

Through their tax, expenditure and regulatory policies and programs, governments in Canada influence the growth in productivity of the whole economy. Various policy and program combinations can affect in different ways productivity growth and, hence, the standard of living of all Canadians. Furthermore, the actions of government influence the competitiveness of domestic industry to a considerable degree.

These observations about the role of government apply in all countries; our particular task is to ensure that Canadian governments function at least as effectively as governments in other countries. It is vital that public administration in Canada be conducted in a highly competent fashion. We Canadians should therefore pursue our broad societal goals in ways that, consistent with those goals, maximize the returns from our human, capital and natural resources.



In this context, our federal form of government poses both advantages and disadvantages for managing the domestic economy. The allocation of constitutional responsibilities between two distinct orders of government lets Canadians match publicly provided goods and services with the preferences of constituent groups across the country. Federalism itself is testimony to the fact that in many instances, we do not need national consensus in order to provide public goods and services. Our educational systems need not, and should not, be uniform, for community views vary greatly across Canada. By contrast, however, there are occasions when national consensus is necessary. National defence provides one obvious example, but some dimensions of managing our domestic economy also require national consensus. Clearly, our position on trade cannot be split in such a way as to respect the protectionist leanings of some Canadians and the free-trade leanings of others. If we are to move toward free-trade on a multilateral or a bilateral basis, a common purpose must prevail.

The advocates of federalism, among whom we Commissioners count ourselves, champion federalism as the optimal form of government: a system that provides more checks and balances against monolithic government than unitary states. Dividing constitutional responsibilities between two orders of government highlights the excesses or inadequacies of any one government. Federalism, in short, is a competitive system of government, which defies tight compartmentalization of constitutional responsibilities.

It is this very competition, however, that many see as being carried to unproductive extremes. Bidding between governments to direct private investment in favour of selected constituents can locate industry where the need is greatest, thereby realizing the broad social benefits associated with private investment. Such competition, however, can go to the point where, through skilful demands of private investors, a firm or group of firms appropriates the entire benefit. Moreover, bidding and competition between federal and provincial governments can fragment an industry, leading to smaller scales of operation and higher costs. Of more general concern, such competition can fracture the Canadian common market through creating barriers to the free movement of goods, people and capital.

These advantages and disadvantages of our federal form of government call for institutional mechanisms tailored to the policy issue at hand. There is no panacea, such as some standard model of co-ordination and co-operation between 11 governments. Co-ordination and co-operation carry their own costs, and it is not obvious that the anticipated benefits always outweigh these costs. This Commission suggests a case-by-case policy approach, beginning with macro-economic demand management and progressing through the micro-level decisions of resource allocation.

## **Stabilization Policies and High Employment**

To counter the vagaries of the business cycle, governments employ demand-management policies designed either to stimulate or to moderate overall aggregate demand for goods and services. The first blush of enthusiasm for Keynes-inspired demand-management policies, however, has gradually faded.



There is now a much greater appreciation than there was during the immediate post-Second World War period of the difficulty of forecasting events and the lags involved in realizing the expected results from policy changes. In addition, economists now recognize public expectations as integral to the economic system, thus challenging the old notion of a trade-off between employment and inflation. Further, the interdependence of national economies and the rapidity of capital movements seriously constrain the latitude available to a small economy like Canada's to counter external "shocks". Independence in domestic policy making is a more modest privilege than most such states/economies appear willing to accept.

In Part III of this Report, Commissioners indicated that the makers of demand-management policies ought to consider the medium to the long term, using discretionary changes in policy only in periods of serious and prolonged recession or "overheating" of the economy. We indicated, too, that structural and institutional features of our economy meant that high levels of unemployment (in the 6.5 to 8 per cent range) were an inevitable adjunct of avoiding inflationary pressures. Until we redress these structural and institutional features by such means as reforming the Unemployment Insurance system and the functioning of labour markets, we should not use demand-management policies to push unemployment below rates of 6.5 to 8 per cent. Control of inflation, we pointed out, is an essential part of good economic management.

In Part III, we outlined several measures for cushioning the employment consequences of the business cycle in order to contribute to the goal of higher employment while maintaining price stability. Wage and price controls and other forms of wage contracts, including "gain sharing", were among the measures we suggested. In some senses these measures are possible substitutes for traditional demand-management policies, but they are also complements. Indeed, wage and price controls are likely to be effective only if demand-management policies are acting in tandem to restrain the economy. Discretionary demand-management policies are less important if gain sharing is widespread, for it is easier to maintain production and employment in periods of depressed markets.

What are the implications of these findings for the constitutional division of powers? And what is the significance of the institutional mechanisms for co-ordination and co-operation between federal and provincial governments? The response depends on the particular instrument employed to obtain stabilization and higher employment.

## ***Fiscal Policy***

Its critics often view federalism as fracturing the decision-making system, with the result that governments move in different directions. For many years the exercise of fiscal policy seemed to serve as an illustration of this premise. The provinces, by increasing taxes or cutting expenditures, could frustrate any attempts of the federal government to create more spending, either by increasing federal spending or by reducing taxes. Alternatively, provincial tax cuts or expenditure increases could frustrate attempts by the federal

government to restrain an overheated economy. The potential for this counter-productive behaviour has clearly increased since 1945, with the growth of provincial governments relative to the federal government. Whereas the federal government accounted for 58 per cent of total government spending in 1950, it accounted for only 49 per cent in 1980. The change in the percentage shares is even greater if we express them net of intergovernmental transfers paid to other levels of government.

Paralleling the faster growth of provincial expenditures, provincial tax revenues have also grown more rapidly in recent decades. Retail sales tax is important to most provinces, and some have, on occasion, lowered rates to increase consumer demand in periods of recession. Ontario and Quebec have both used variations in sales-tax rates to help particular sectors of their economies. In 1978, the federal government, in an effort to provide some short-term stimulus, promised to reimburse provincial governments if they undertook to cut their retail sales taxes. In response, Quebec cut its sales tax more heavily than requested, but only for selective products prominent in Quebec's industrial output, initiating federal-provincial conflict which limited the effectiveness of the project.

Despite the potential for divergent fiscal policies, and instances, as in 1978, of poorly co-ordinated fiscal policy, it is not at all clear that our federal form of government hampers effective management of demand. The two orders of government have generally harmonized their tax bases, and federal influence over private-sector spending remains strong through the structure and level of taxation.

Federal and provincial governments do not formally co-ordinate expenditure levels, but this has not proved to be a major problem for federal fiscal policy. Ministers of Finance from the eleven governments usually meet at least once a year to consult on their budget plans, and the Continuing Committee of Officials on Fiscal and Economic Matters, established in 1955, has further facilitated communication. The federal government, in formulating its own fiscal policy, is thus able to give some consideration to the activities of the provincial governments. The size of federal expenditures, although diminishing as a share of total public outlays, has not declined in relation to the gross national product, and its potential for affecting the level of total demand in the economy has not significantly eroded.

Thus Commissioners do not see federalism as a major impediment to the continued effectiveness of federal fiscal policy. Accordingly, our recommendations are relatively small in scale. We believe that consultation among Finance Ministers has proved useful, and we recommend formal recognition of this process, entailing designated times and specified procedures. There should be closer co-ordination of the timing of federal and provincial budgets, in order to reduce uncertainty during the period when federal and provincial governments are formulating their budgets. These more closely co-ordinated budgets should affect the frequency and timing of the formal meetings of the Ministers of Finance. Finally, we recommend ways to help maintain the current level of harmony in the tax base.

## *Monetary Policy*

Monetary policy seeks to regulate the supply of money and credit in the economy as a whole. It must be co-ordinated with fiscal policy in such a way that the two complement each other in stabilizing the economy. As with fiscal policy, there is no question that the federal government possesses the constitutional authority to pursue these goals. The federal government has authority, under section 91 of the Constitution Act, 1867, over currency and coinage, banking, the incorporation of banks, and the issue of paper money and legal tender. With these instruments, it is able to influence, at least to some degree, interest rates and the exchange rate. The growing activity of the so-called “near-banks” (that is, the provincially chartered trust and loan companies and credit unions) affects the ability of the central bank to influence the supply of money. Parliament concluded, however, when it revised the Bank Act in 1980, that this situation did not pose a significant problem for monetary policy. Similarly, as major borrowers of funds in international markets, provinces can influence the exchange rate; yet again, the main instruments of control lie in federal hands. The issues for federalism, then, are economic and political rather than constitutional.

An important political issue related to monetary policy has been the demand by some provinces for a regionally differentiated policy. The fact is, however, that the mobility of capital within the economic union does not permit interregional variation in interest rates. Moreover, as Commissioners have already noted, we do not believe that macro-economic policy is an appropriate instrument for pursuing regional development. In any event, recent experience has shown that a small open economy such as Canada's cannot follow a monetary policy which is isolated from the world financial system. The constraint is international, not domestic.

## *Incomes Policies*

Incomes policies are intended to moderate the rate of inflation by controlling price increases and increases in wages and salaries. In Chapter 3, Commissioners argued against the adoption of a permanent incomes policy in Canada. We do not believe that such a policy is consistent with the flexibility and adaptability required in a rapidly changing world. Moreover, since the regulation of labour, property and civil rights—all of which are affected by incomes policy—lies largely within provincial jurisdiction, a permanent incomes policy would redistribute the powers and responsibilities of both orders of government. If temporary controls become necessary on an emergency basis, however, the federal power has the authority to impose them under the “Peace, Order, and good Government” clause. This authority was clearly affirmed in the 1975 Inflation Reference Case.

While Commissioners do not advocate a permanent incomes policy, there are two approaches to the issue that would not suffer from the constitutional objections that face permanent wage and price controls: a tax-based incomes policy (TIP), or a policy, like the recent “Six-and-Five” program, that applies only to federal employees and employers falling within federal labour



jurisdiction. A TIP would certainly require federal-provincial consultation, since it would involve important changes in federal tax law with major implications for the provinces. Indeed, it would require provincial acquiescence, if not full-fledged support, since the provincial governments could issue regulations or modify their taxes in such a way as to neutralize the federal tax incentives that are supposed to make the program work. The use of a Six-and-Five type approach to incomes policy, whether on a permanent or temporary basis, avoids the thorny question of the division of powers by confining federal regulations to those employers and employees over which it has jurisdiction. This group does not constitute a majority of employers and employees, but it is large enough so that an incomes policy that applied to it could have a significant affect on the economy and serve as a demonstration for the provinces and for the private actors whom they regulate. The federal government could further extend the range of a policy of this type by making conformity to these restraints a condition of some or all of its procurement contracts.

Finally, provincial governments have also promoted restraint. As with the federal Six-and-Five program, they have recently concentrated on restraining public sector wage increases and on controlling provincially regulated prices. The provincial programs have varied considerably in response to local conditions and the political and economic objectives of each government. In several provinces, such as British Columbia, Quebec and Newfoundland, they have produced vigorous internal conflict. This variation is again consistent with Commissioners' emphasis on the advantages of federalism in allowing for variety and experiment, and on diffusing conflict widely. These differences in approach, however, took place within a broad common framework which was the product of the common conditions within which provinces and the federal government found themselves.

### ***Labour Market Restructuring: Gain Sharing***

Commissioners view change in the structure of labour markets as perhaps the best way of reducing the high levels of structural unemployment that fiscal and monetary policies appear incapable of altering. Many factors affect the functioning of labour markets. Effective information channels can link workers to changing employment opportunities. Mobility grants can facilitate this matching process. Education and training can ensure the right mix of skills in the work-force.

Intervention in the wage-setting process is another factor that can affect labour markets. It can take the form of minimum wage policies, tax and other incentives designed to influence labour and management in bargaining, and regulations covering labour relations, such as those relating to union certification and the right to strike. Most of these factors fall primarily within provincial jurisdiction. Does this fact limit the capacity of the federal government to act and, more generally, impede effective policy?

Commissioners' chief recommendation with respect to labour markets in Part III was the use of federal tax incentives to encourage the private sector to determine wage levels, to some extent, by the employer's market gains. We



believe that the federal government, operating in its own jurisdiction, can pursue such an objective through the tax system. We do not expect such action to generate serious inter-regional or intergovernmental tensions.

Finally, as Canada tries out new approaches to finding answers for these questions, the variety and experimentation that federalism allows again offers an important advantage. Provincial labour laws have a great deal in common: common origins in federal wartime labour-relations legislation; and similarities in the economic and political forces at work. There are also significant variations from province to province. British Columbia, Saskatchewan, Ontario and Quebec have made important innovations, many of them the subject of controversy. In recent years, in several jurisdictions, policies favourable to organized labour have given way to a more restrictive approach, particularly with respect to the public sector. The point here is not whether individuals approve or disapprove of such changes, but the possibility for variety and experiment. Labour/management relations are indeed a national concern, but it does not follow that provincial regulation is inappropriate as a means to deal with it.

## **Infrastructural Development**

Transportation and communication networks link the citizens spread out across our vast nation, facilitating the exchange of goods, services and ideas among them. Financial institutions discharge an important function in matching investment funds with Canadian needs and opportunities. These sorts of material and symbolic ties have helped to build the Canadian nation as witness the vital contribution of the Canadian Pacific Railway. All these networks are essential, not only to the economic health of Confederation, but also to the maintenance of the political unity that is the ultimate rationale for the existence of the economic union. Economically and politically, they are essential to making a living reality of the concept of economic union.

### ***Transportation***

Canada must develop a coherent regulatory regime encompassing all the major forms of transportation that knit the country together: railways, highways and trucking, Great Lakes and ocean shipping, and aeronautics. Canada's Constitution does not expressly confer jurisdiction over a general category of transportation. However, section 92(10) of the Constitution Act, 1867 placed navigation and shipping, railways, canals and telegraphs in federal jurisdiction, and gave the federal government power to declare other works and undertakings running beyond provincial boundaries within its purview.

The courts have interpreted the "Peace, Order, and good Government" clause of section 91 as granting constitutional authority for federal regulation of the aeronautics industry. The federal government now has clear jurisdiction over the whole of that sector. Clearly established jurisdiction is not always enough, however, as the authors of one research study made for this Commission have suggested.<sup>6</sup> They concluded that provincial ownership or

share holding in important regional airlines has frustrated federal attempts to use airline regulation as an instrument of national economic development. This is at least part of the reason, they argue, for recent federal moves toward deregulation of airlines.

The constitutional problem associated with federal regulation of railways and trucking is rather different. Judicial interpretation of subsections (a) and (b) of section 92(10) has resulted in the assigning of federal jurisdiction over the regulation of interprovincial undertakings of these kinds and of provincial jurisdiction over intra-provincial undertakings. The federal share of this split jurisdiction has gradually widened as the courts have held that transportation units which perform both interprovincial and intra-provincial functions fall under exclusive federal jurisdiction. The federal government also has jurisdiction over undertakings connected to, or forming part of, a broader interprovincial undertaking.

This approach has granted the federal government sufficient jurisdictional latitude to implement national transportation policies in these sectors, and in the railway sector it appears to have used this authority appropriately. The same cannot be said, however, with respect to the trucking sector, where, under Part III of the National Transportation Act, the federal government has delegated its powers to license and regulate to provincial regulatory agencies. This delegation has resulted in ten different sets of trucking-industry regulations, each formulated by two orders of government. The consequent arrangement is expensive to administer and confusing in its effects. At the time of writing, the governments of Canada are engaged in discussions with the intent of harmonizing these regulations, and agreement seems within reach. If that does not happen, serious consideration should be given to consolidating responsibility for interprovincial trucking under federal jurisdiction.

## *Communications*

Electronic communication links are as vital to the Canadian economic union as were railways in the past. The aims of federal policy with respect to communications parallel those already identified for transportation. So does the constitutional status of federal regulation, which the courts have interpreted as giving the federal government exclusive jurisdiction over radio communication in its various forms, including radio, television, cable television, microwave and satellite.

The jurisdictional situation with respect to telephones and related forms of telecommunications is, however, unique. The courts have recognized neither the type of split jurisdiction that applies to trucking nor the exclusive jurisdiction of one order of government. Instead, a patchwork of jurisdictions has gradually evolved. Canada's two largest telephone companies and two specialized domestic common carriers fall within federal jurisdiction. Seven major provincial carriers and a host of smaller companies come under provincial regulation. To cap it all, no one regulates Telecom Canada, an association of the ten principal carriers that co-ordinates the operation of Canada's only national, public, switched-telephone network.

This jurisdictional patchwork has made it difficult to develop a national telecommunications policy, and this failure, in turn, has hindered the creation of alternative national networks and services. By international standards, Canada has an advanced and effective telecommunications system. As befits a country where the conquering of distance is a fundamental challenge, Canada has pioneered a number of important technological advances in telecommunications. We are in danger, however, of failing to keep up with the adoption of new facilities, and of falling behind the United States. Hence it is important that we clarify jurisdiction and roles.

Federal attempts to develop and pursue a comprehensive national policy on telephones and telecommunications began in 1968. At the same time, provinces were also exploring the part played by communications in economic development and culture. By the 1970s, they were seeking greater constitutional authority in the field. These conflicting objectives gave rise to bitter federal-provincial conflicts and very little effective action, as distinctions between content and hardware or between inter- and intra-provincial communications broke down under the impact of rapid technological change. Canadians must change this situation.

Three possible directions for change exist. First, the federal government might assert jurisdiction over the entire telecommunications sector. This action would bring the provincially regulated telephone companies, along with Telecom Canada, under federal regulation, but it would be very difficult. Several provinces actually own their telephone companies, and there are many aspects of services within a province that are the legitimate concern of provincial governments; these include, for example, services to remote areas and integration of cable and telephone services.

A second possible solution would be to formalize concurrent jurisdiction, with federal paramountcy. This arrangement would allow the federal government to regulate those aspects of telecommunications that are essential to interprovincial and international services and to maintenance of an effective nation-wide, telecommunications system. Provinces would retain the authority to regulate with respect to local dimensions. Such concurrency would provide a high degree of flexibility in responding to technological changes. Shared jurisdiction of this sort, however, does have dangers as American experience has shown: intrastate and interstate services use the same facilities so that separate state and federal regulation of local and interstate rates is both difficult and expensive to manage.

The third option would be joint regulation. Under this arrangement, both federal and provincial governments would delegate their regulatory authority to a common federal-provincial regulatory agency. This adjustment would involve a major change in the role and composition of the existing Canadian Radio-Television and Telecommunications Commission, either by shifting some of its responsibilities to a new body or by involving provinces in CRTC appointments and procedures. While such an arrangement might overcome some of the problems of two-tier regulation, it would lessen flexibility and reduce the responsibility and accountability of both orders of government.

On balance, concurrent jurisdiction with federal paramountcy is Commissioners' preferred option, since it meets the key objectives of ensuring



a nation-wide network for communication flows of all kinds and of showing sensitivity to provincial interests.

## *Financial Institutions*

Just as our transportation and communications systems create a vital link between buyers and sellers, and between producers and consumers, so financial institutions form a critical component of the economic infrastructure, providing the key links between Canadian savers and investors. Historically, four distinct types of financial institution have been the basis of our financial system: banks, trust companies, insurance companies and securities brokers. Each of these four could tap only some sources of savings and would make only certain types of investment. At present, this system is undergoing fundamental transformation. The four types of financial institutions are becoming less and less distinct as each takes on functions previously performed exclusively by one of the other types.

Rapid technological change, spurred by international competition, is one of the driving forces behind this transformation. These changes have made it possible for financial institutions to offer consumers "one-stop shopping" for financial services. Quebec is deregulating its financial institutions, and this action, in turn, has put pressure on other provincial governments to follow suit. Constitutionally, the federal government holds exclusive jurisdiction over the banks, while provincial governments regulate the securities markets and the brokers that operate within them. The constitutional regime governing the trust and insurance companies is more complex.

The current constitutional arrangements have proved adequate to the effective regulation of the four types of financial institution, but the convergence described above raises new constitutional issues. If the four types are disappearing, the distinct regulatory regimes organized around them automatically become obsolete. The Economic Council of Canada has argued that in their place, we should adopt a "functional" approach to regulation, applying uniform rules to the performance of specific financial services such as stock broking, regardless of the institution performing them.<sup>7</sup> For example, the federal Bank Act would regulate the "banking" functions of trust companies. In this respect, technological developments in the financial sector seem to require the same sort of regulatory change already mentioned above as relating to telephones and telecommunications. The issue, for our purposes here, is whether the existing division of powers can permit effective regulation based on function.<sup>8</sup>

This issue has several facets. Does development of an effective, functional system of regulation require federal leadership? If it does, has the federal government constitutional authority to provide such leadership? If it has, would exercise of such leadership provoke substantial provincial opposition? And, most significant, what are the most important directions to pursue?

These questions are much easier to ask than they are to answer. With respect to the first, the record is mixed. Despite the regulatory fragmentation, we have developed a highly efficient, nationally integrated financial system. For a very long period, the banks have served as nation-wide institutions.



Recent developments in other branches of the financial industry are also moving in the same direction. Indeed, it has been one of the historic regional grievances in Canada that the financial industry has been too concentrated and therefore insensitive to the financial needs and opportunities of specific areas.

Provincial regulation of the stock markets constitutes a particularly interesting example. In principle, there seems to be a strong argument for federal regulation. In practice, we have achieved much the same result with provincial jurisdiction because of the leading role that Ontario, the centre of the Canadian financial industry, has been able to play, often in partnership with Quebec. One research study prepared for this Commission<sup>9</sup> argues that there is no pressing reason to tamper with this arrangement: provincial regulation has satisfied national purposes. Other research<sup>10</sup> is less sanguine about the future. Technological change, the increasing international integration of capital markets, and the desire of provinces, especially Quebec, to regulate markets in pursuit of provincial development goals are all likely to place greater strains on the existing system in the near future.

In light of the importance of our financial institutions for effective economic development and adaptation to a more competitive world, it is essential that we find answers to these questions with all possible speed. The investigative committee which recently produced a report on the regulation of Canadian financial institutions,<sup>11</sup> a federal joint committee comprised of representatives of the federal government and the industry, investigated some of these problems. This process did not fully involve the provinces, which is unfortunate, given that much of the expertise in this area is provincial, and in view of the divided jurisdiction noted above. This is an area in which the Council of Ministers Responsible for Economic Development could monitor developments.

## **Adjustment and Social Policies**

Within a framework of freer trade and effective policies of stabilization and infrastructural development, Canadian workers and employers must adapt creatively to changing economic circumstances, moving out of activities with declining prospects and seizing new opportunities. We shall review three groups of policies, all designed to facilitate this process. In all these areas, both federal and provincial governments play important roles.

### ***Reducing Obstacles to Market Allocations***

In Part III of this Report, Commissioners spelled out some major recommendations to reduce barriers to market allocation of resources. We emphasized the importance of restraining the natural political impulse to “bail out” specific industries. Obviously, this issue involves no question of the division of powers in the federal system: our call is simply for restraint. Yet Canadians should recognize that federalism probably increases the tendency to pursue “rescue” policies. Industries in trouble, whether large or small in economic terms, are important in the lives of individual provinces and communities.

Provincial governments may therefore have a comparatively large stake in those industries. Therefore, if the federal government resists the impulse to bail them out, there will be much greater pressures on the provincial governments to intervene, and for them to add their voices to increase the pressure on the federal government.

In one respect, a less-interventionist federal industrial policy will tend to mitigate intergovernmental and interregional conflict. One common source of regional grievance is the perception that political considerations motivate highly visible discretionary federal bail-outs which favour particular regions. A common reaction is, "Why did you not do the same for us?" In the long run, greater restraint by the federal government in taking such decisions should strengthen general perceptions of its fairness and even-handedness.

Competition policy and product standards are vital to effective market allocation. Effective competition policy is essential to developing the full benefits that can accrue from an economic union. Canada has not been very aggressive in encouraging competition, and one reason for this may be our constitutional situation. Canadian legislation relating to competition has found its constitutional justification almost exclusively in the federal power to make criminal law. This arrangement has resulted in limiting the policy tools and the range of remedies available, and in creating some ambiguity about the location, federal or provincial, of the power to launch prosecutions. It provides an excellent example of the tendency for the exigencies of federalism to constrain the tools and instruments through which policy is pursued.

The recent Canadian National Transportation case<sup>12</sup> decided by the Supreme Court cleared up some of these questions. In his concurring judgment, Mr. Justice Brian Dickson argued that the regulation of competition is one of those activities which provincial governments could not practically or constitutionally enact, for "If competition is to be regulated at all, it must be regulated federally." Mr. Justice Dickson raised the question of whether this situation implied that the federal government could justify legislation on competition under the general trade and commerce power set forth in section 91(2), rather than under the criminal law power. In Commissioners' view, it is essential to resolve this ambiguity. Clearly, regulating competition is an aspect of overall regulation of trade and commerce throughout Canada. We propose, accordingly, that section 91(2) be amended explicitly to include federal regulatory power over "competition".

Closely related to competition policy is the regulation of labelling and product standards. The recent cases involving Labatt's and Dominion Stores appear to have thrown the federal powers in this area into considerable confusion. These decisions invalidated important sections of the federal Food and Drug Act on the grounds that they purported to impose standards on products that were made and traded intra-provincially. In the Labatt's case,<sup>13</sup> however, the product in question was beer, a standardized product, advertised and sold across Canada by national companies, which simply happened to be made in breweries in each province. To see brewing and a host of analogous kinds of production as a local activity is, as one economist commented, "dangerously out of touch with the modern economy's seamless web of production, promotion and sale of consumer goods."<sup>14</sup> In the Dominion Stores

case,<sup>15</sup> the issue was federally defined grading standards for apples, where much the same analysis applies. Taken together, these decisions appear significantly to narrow the interpretation of the federal power under section 91(2) to regulate trade and commerce throughout the country. Widely varying standards and definitions in commonly used products can impose high costs on producers and consumers. Thus Commissioners recommend a further addition to the general trade and commerce power: the regulation of product standards.

Neither of these cases involves important regional issues. In both, effective remedies seem beyond reasonable provincial capacities. Few provinces have shown interest in legislating in these fields. Indeed, in earlier rounds of constitutional discussion, a majority of provinces signified their willingness to contemplate a constitutional amendment with respect to product standards.

A final element favouring elimination of obstacles to market allocation is a view that Canadian governments should move toward reducing, or at least rationalizing, the burdens of regulation in as many fields as possible. Again, this is a general recommendation that Commissioners urge on both orders of government. In a number of fields, such as environmental standards, consumer protection and occupational health and safety, economic actors find themselves subject to regulation from two or more sources, either in the form of ten different provincial regulatory regimes, or in the form of federal and provincial regimes. This plethora of systems can be costly. On the other hand, in the field of the environment, we recommend a strengthened regulatory framework. In many instances, these are relatively new areas of government activity into which both orders moved, and in which stable relations have yet to be worked out.

Commissioners wish to emphasize two points. First, where there are divergent provincial regulatory regimes, the most appropriate model is harmonization of provincial laws through interprovincial mechanisms. Secondly, where the problem arises out of a division of regulatory regimes between federal and provincial orders, we believe, as with telecommunications and finance, that the appropriate principle is functional regulation: the regulation of specific activities rather than of specific institutions.

### ***Encouraging and Facilitating Adaptation***

Throughout our Report, we Commissioners have emphasized the need to encourage mobility of workers from areas of low to high employment opportunity. We have recommended a Transitional Adjustment Assistance Program (TAAP) to increase incentives for relocation and training. We have urged removal of existing incentives, found especially in the Unemployment Insurance system, that support certain types of inefficient industries. We have also called for more effective collection and dissemination of information about job opportunities across the country. The federal government has authority to address all these issues. We do realize, however, that the emphasis on adjustment through mobility does seem to push against the emphasis on “place prosperity”, that is, on sustaining existing communities, which often underlies federal regional policy and much provincial industrial



development policy. In our view, Canadians must continually balance place prosperity against national efficiency and individual mobility against the preservation of communities. Government action can certainly increase the prosperity of some places in some circumstances. Where this is not possible, TAAP offers an ideal form of adjustment assistance.

**Training.** Commissioners argued in Part V that the development of a skilled and adaptable Canadian work-force is essential for effective adaptation to new possibilities. We argued, too, for shifting the balance between institutional and on-the-job training in the direction of the former approach and claimed that the TAAP would help to achieve this end. Training activities are a field of long-standing and complex federal-provincial relationships. On the one hand, training is an essential element of national economic management, closely linked to many other federal programs, such as Unemployment Insurance, and to the successful meeting of the needs of a national labour market. On the other hand, training is part of the educational process, which is a matter of provincial jurisdiction.

Through shared-cost programs, the federal government has helped to develop vocational training schools and community colleges in the various provinces. Under the federal Adult Occupational Training Act, the emphasis shifted to the federal purchase of student places in training courses for individuals selected for training. Under the National Training Act of 1982, somewhat greater emphasis was placed on funding training through the private sector, a thrust with which Commissioners sympathize. There is much room here for experimentation and innovation. We do not believe, however, that it is necessary to shift powers or responsibilities. Since "training" is such a multi-faceted process which can extend through a whole lifetime, federal and provincial governments, and the public and private sectors, must all participate. The need here is for effective co-ordination. We believe that within a broad national framework, the government of Canada and of each province should work out a specific mix of programs for that province; the duty of the federal government should be to contribute its perspective of the needs of the national labour market, and that of the province to contribute the perspective of its market.

**Education.** Almost every one of our values, from national identity, to social and cultural values, to economic effectiveness, affects education. In Part V, Commissioners noted the special concern of many intervenors for the character and quality of Canadian education. We concluded that Canada's educational institutions, particularly those of the post-secondary sector, are not always fully ready to facilitate adaptation or to emphasize excellence. Significant changes must be made, and we argued that there is a strong case for reorientation of federal activity in this field to assist in making them.

The federal government already acts extensively in education, for the most part in post-secondary education and research. In 1983-84, the federal government spent more than \$3 billion on education-related matters; more than half of this amount consisted of cash payments for post-secondary education under the Established Programs Financing (EPF) arrangements.



There are no conditions attached to the EPF transfers, and the amounts allocated no longer bear any direct relationship to actual spending in the field.

Commissioners make few recommendations with respect to primary and secondary education. There is little scope for federal activity here. The interprovincial Council of Ministers of Education (CMEC) has done extensive work co-ordinating curricula and facilitating exchanges and the like, and it could extend its work. We believe that more needs to be done to monitor quality and standards in primary and secondary education, and to conduct related research. Ideally, changes in these directions would be the result of a private-sector initiative, and the work done would influence both orders of government. Finally, we note that in the Constitution Act, 1982, Canadians did commit themselves to one crucial "national standard" in education: the right to education in the local minority official language in every province, subject only to the condition "where numbers warrant".

Commissioners believe that post-secondary education is so much part of a national and indeed even an international, system, and is so necessary to innovation, both because of its training of skilled personnel and because of research, that reorientation of the federal role is essential, even though we believe that the provinces can and must retain jurisdictional responsibility in this sector. In Part V, we developed two broad options. The first is to channel federal support for post-secondary education directly to students. A move in this direction would require careful consultation with provinces. Since, under present arrangements, the federal government's share of funding of post-secondary education varies considerably from province to province, it would be essential that the transition not introduce regional inequities.

Such a scheme of unconditional direct grants to students would, Commissioners believe, be a constitutional exercise of the spending power. However, if the federal government were to use the grants as a more active instrument of federal intervention—for example, by using them to determine admission standards to universities, or by providing differential grants scaled to particular fields and disciplines—the situation would become more complex. Such use might be challenged successfully as federal legislation in an area of provincial jurisdiction and therefore an invalid use of the spending power. On a more practical basis, it could produce havoc in the system if provinces and universities were continually scrambling to adapt to changing federal definitions of needs. Such a situation could arise if the provinces exercised little influence over these definitions, and if the federal government had no responsibility for the financial or administrative difficulties that their decisions produced. For these reasons, we do not believe that student grants or loans should be used differentially in this way.

If Ottawa and the provinces decide that the federal government should concern itself more with the content of educational policy, a second option would be to restore some conditionality to federal transfers in support of post-secondary education. The federal government would relate the transfers to actual spending and tie them to some clear national objectives. If we were to move in this direction, it would be essential, first, to spell out such objectives precisely.

More generally, Commissioners believe that considerable federal-provincial consultation is essential to determine realistically and productively overall levels of funding and of national educational goals in the post-secondary field. We note with sadness that concern with fiscal arrangements, rather than with the aims and purposes of post-secondary education, has dominated federal-provincial relations in this field.

### *Sharing the Benefits and Burdens of Adjustment*

In Part V of this Report, Commissioners argued that an essential element of adjustment is shielding or protecting those who find themselves harmed by the process. Effective social policy—a well-designed social safety net—is a prerequisite for successful adjustment. Failure to manage fairly the disruptive effects of change will accentuate political resistance to such changes. This is true for individuals, communities, provinces and regions.

Adjustment policy and social policy are thus inextricably linked. As in adjustment policy, so in social policy, shared jurisdiction is central. The growth of the welfare state accounted for much of the post-Second World War change in the federal system and became a central aspect of co-operative federalism. The Constitution Act, 1867 assigned to the provinces responsibility for most aspects of social welfare. By the 1930s, economic, demographic and social change, combined with changing conceptions of social justice, had demonstrated that the provinces alone could not construct a modern “social service” state. Some shared-cost programs in pensions, health and other fields were undertaken as early as the 1920s; during the Great Depression in the 1930s, the federal government assumed more responsibility for assisting provinces to provide welfare and relief to their residents. During and after the Second World War, federal jurisdictional authority in the social policy field expanded as constitutional amendments gave the federal government authority over unemployment insurance and pensions. Through use of its spending power, that government introduced the Family Allowance program. The spending power also made possible the development of shared-cost programs in health, post-secondary education, and welfare, programs which incorporated innovations originally undertaken by provinces.

Today, with the sole exception of social assistance, the federal government is responsible for operating all the major income-security programs in the country, and is the source of most of the funds involved. It is also a central participant in hospital and medical care, and in funding social services, as well as social assistance, through the shared-cost Canada Assistance Plan (CAP). The provinces are responsible for the organization and delivery of social welfare, social services such as family counselling, and health care.

There is considerable flexibility in social policy. Provinces vary in their administration and funding of health care, though the Canada Health Act has narrowed provincial differences. Provinces retain considerable discretion in setting rates for welfare payments and in the organization and delivery of services. Through tax credits and direct payments, provinces supplement federal Old Age Security. The federal Family Allowance program permits

provinces to vary payment methods in accordance with their own social priorities.

The social policy system has also been able to accommodate Quebec's distinctiveness. In 1964, new federal-provincial arrangements permitted Quebec (and any other province) to opt out of a large number of programs, and to receive the equivalent federal funds in the form of increased tax shares. Quebec was able to enact its own contributory pension plan, the Quebec Pension Plan, which remains closely co-ordinated with the Canada Pension Plan, which operates for the rest of the country.

The centre-piece for Commissioners' proposals in this area is establishment of a Universal Income Security Program (UISP), which would entail a universally available income supplement, subject to reduction at a relatively low "tax-back" rate. Such a scheme, delivered either through the federal tax system or by means of direct transfers, appears to fall within federal jurisdiction. The present federal responsibility for Family Allowances, Unemployment Insurance and Old Age Security clearly establishes a broad federal mandate for income security, of which the UISP is a logical development. Moreover, we believe that individual provinces acting alone would not be capable of bringing such a program into operation.

To create the UISP, however, would involve a major change in federal-provincial relations, a change which Commissioners think would be healthy for the federal system. The 50/50 sharing of responsibility for welfare payments under CAP would end, and the provinces would become solely responsible for the provision of any supplement above the established guaranteed income level. Changes in the tax system would help to finance the UISP. Under one recommended approach, provinces would cede some tax room back to the federal government, which would then deliver the entire program. Under a less desirable arrangement, provincial governments would superimpose a provincial layer of payments on the federal transfer. Particularly under the first option, the UISP proposal would involve a major disentanglement of federal and provincial responsibilities: the federal government would have authority over basic income support, which would be set at a national minimum; the provinces would be free to increase the level of these benefits by supplementing the federal payments. Our proposal would therefore increase federal and provincial flexibility, and significantly improve accountability at both levels.

Provincial opposition to the UISP is likely, however, if the effect of this proposed program were to increase provincial responsibilities while diminishing the funds available to the provinces. The federal government should develop the program in close consultation with provincial governments. The disentanglement that the UISP calls for would not eliminate federal-provincial interdependence because any future changes in the program's levels would have immediate consequences for provincial burdens.

If it is not possible to proceed immediately with the UISP proposal, Commissioners advocate a number of smaller interim changes in social policy. First, family benefits should be rationalized by replacing current programs with a single demogrant or tax credit, to be progressively "taxed back" for



families with incomes of over \$26 000 a year. This change would not raise major federal-provincial issues. A second immediate reform, which we advocated in Part V, is the revision of the Canada Assistance Plan to reduce the features that lead to a "poverty trap", creating disincentives for recipients to re-enter the work-force. This step would require considerable federal-provincial co-operation and co-ordination. The appropriate vehicle for achieving this is the Council of Ministers Responsible for Social Policy which we shall shortly propose.

Commissioners have also proposed making a number of changes in the Unemployment Insurance (UI) system. We have suggested making it more of a risk-related insurance scheme, extending the qualifying period for UI benefits, and removing regionally related subsidies built into the program. These changes will have important regional and federal-provincial ramifications. Regionally related Unemployment Insurance benefits, combined with a short qualifying period, have become a major part of the social fabric of many communities in the Atlantic provinces. Moreover, unilateral federal changes in Unemployment Insurance inevitably have major repercussions for provincial welfare costs.

The changes Commissioners have proposed would have the greatest effect on the poorer provinces with high rates of unemployment. Under current arrangements, provincial governments receive some protection from federal reductions in the level of UI transfers: under CAP, the federal government picks up half of any additional welfare costs. If CAP disappears, however, this mechanism will not be available, and the more expensive UISP will replace it. The effect of these UI changes on provincial budgetary requirements must therefore be weighed carefully, and the government must ensure that compensation is available for provinces especially hard hit by them. The main purpose of this change, after all, would be to increase the incentives for individual mobility, and not to shift burdens onto the provinces.

Single-industry resource-based towns raise a special adjustment problem. A mine closure or some similar event can devastate such communities almost overnight. The costs of such events extend far beyond the workers actually employed in the particular resource sector affected: to ease the burden of such economic shocks will require co-ordination of the activities of all three orders of government. Commissioners therefore propose a mechanism analogous to that used in other kinds of emergencies: an *ad hoc* federal-provincial-municipal task force that would include representatives of the community to co-ordinate these efforts. In Part V, Commissioners suggested that the TAAP, which would be funded by the savings accruing from the Unemployment Insurance reforms noted above, should compensate for losses of assets, such as the value of housing, caused by the sudden undermining of the community's economic base.

## Conclusions

Federalism is inevitably a complex system of government, and one that provides little comfort to those with tidy minds. Nonetheless, we Canadians have adapted it successfully to the requirements of our post-Second World



War Canadian society, and it remains a means of permitting policy that is sensitive to the wide diversity of needs and interests across the country. Canadian federalism has also been a source of dynamism.

This Commission has now canvassed goals and objectives, asking whether their attainment will require major changes in the structure and operation of the federal system. Some readers will infer that our answer is yes. We have, after all, made a number of suggestions for significant change: for strengthening the federal power over trade and commerce by adding competition and product standards, for redefining federal responsibilities in post-secondary education, to mention two. Yet as we have examined each area, Commissioners have found a great deal of potential for flexibility. Our vision is not of a central government hamstrung by federalism in the face of oncoming challenges; rather, we have seen the wide scope for action within federal jurisdiction. Moreover, we have directed a number of our recommendations to the provinces, rather than the federal government, and we have concluded in most instances that the provinces have the ability to respond. Finally, we have recognized that in many policy fields, shared jurisdiction is not a constitutional accident, but a faithful reflection of the co-existence of legitimate provincial and national concerns. To call for complete centralization of powers, or for extensive decentralization, in such areas would almost certainly lead policy makers to neglect important dimensions and to be less sensitive to vital interests. Thus we think that shared jurisdiction in a field such as training is both necessary and desirable. Moreover, we believe that it is possible to design effective mechanisms through which to achieve the required co-ordination.

In addition, Commissioners believe that federal jurisdiction over trade and commerce and over "Peace, Order, and good Government" can evolve in the light of emerging economic needs. The courts have constrained the trade and commerce power, and the federal government has used "Peace, Order, and good Government" largely as an emergency power; but both powers have sustained legislation of inherent national importance. We expect that this will happen again. The need, as before, will be to balance the vitality of federalism against national needs. Any legislative extension of these two forms of federal power should clearly address a widely experienced need which existing legislation, whether federal or provincial, cannot deal with adequately, and which, to be effective, must apply uniformly across the country. Furthermore, such legislation, to be acceptable, would have to respect existing provincial economic patterns; these patterns could not be set aside without a compelling, demonstrated, national need, and even then, only to the extent necessary to meet the defined national purposes. Thus, we believe it essential to protect valid provincial objectives against open-ended federal intervention in the pursuit of national goals; but there might well be cases in which judges might incrementally adapt the general federal trade powers, applying a concept of "compelling national interest" that is broader than an "emergency power", but narrower than a simple undefined national interest. We hope for further judicial creativity in developing such constitutional mediating principles.

The virtues of federalism remain important from the perspective of democracy and effective policy making. Not only does the existence of

provinces with wide powers accord with the political sense that we Canadians have of ourselves but, in addition, the provinces offer other channels of access, forums for accommodation of conflicting interests, and arenas for adaptation, experimentation and gathering of information. The very complexity of federalism provides a resilience and capacity to absorb shocks not always found in highly centralized systems.

Nevertheless, with both orders of government deploying so many instruments in the pursuit of economic growth in a competitive international environment, Commissioners recognize the need for a high degree of co-ordination. There has been much searching for the "right" mechanism to achieve this co-ordination, along with virtually continuous change in the political structures through which the federal government integrates national and regional perspectives in its own policy-making process. Commissioners believe that the recently developed mechanism of the Economic and Regional Development Agreement (ERDA) provides a promising model. ERDAs provide for bilateral co-ordination on basic goals, together with a division of labour based on agreement as to which government will take responsibility for which areas. They become the umbrellas under which the governments work out more detailed agreements between particular departments. Within this framework, we think it desirable, on grounds of accountability, that each government seek to take responsibility for final design and implementation of the relevant components of the larger agreement. In discussions, the federal government should emphasize the perspective of the whole national economy and of the integration of each region within it, and maximize linkages between regions. In accordance with our consistent emphasis on adjustment, we also believe that federal efforts should assist Canada's provinces and citizens to adjust to the new competitive environment.

The constraints that federalism imposes on economic management are not primarily constitutional. Rather, they arise out of the regional structure of our country. It is not lack of authority, for example, that will limit federal efforts to place less emphasis on place prosperity and more on individual mobility. It is political opposition—and the need to balance conflicting signals from different parts of the country—that will prove the real difficulty. For this reason we must rely on political institutions, both at the national and the intergovernmental level. To reorient the focus of Canadian economic policy will not be easy, because it will require construction of new consensus on our strategy of instruments of development and distribution. To form this strategy is a task for democratic political leadership, guided by much talk among citizens in a multitude of forums.

## Notes

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2. John D. Whyte, "Constitutional Aspects of Economic Development Policy", in *Division of Powers and Public Policy*, vol. 61, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).

3. Samuel H. Beer "Federalism: Lessons of the Past; Choices for the Future", in Center for National Policy, *Federalism: Making the System Work* (Washington, D.C.: The Center, 1982), p. 20.
4. This study has been summarized in Roger F. Swanson, *International Perspectives on the Canada-U.S. Relationship* (New York: New York University Press, 1978), pp. 221-65.
5. See P.R. Johansson, "British Columbia's Relation with the United States", *Canadian Public Administration* 21 (Summer 1978): 212-33.
6. See Richard Schultz and Alan Alexandroff, *Economic Regulation and the Federal System*, vol. 42 (Toronto: University of Toronto Press, 1985).
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8. Nicolas Roy, *Mobility of Capital in the Canadian Economic Union*, vol. 66, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).
9. See Thomas J. Courchene, *Economic Management and the Division of Powers*, vol. 67 (Toronto: University of Toronto Press, 1985).
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12. *Attorney General of Canada v. Canadian National Transportation Ltd.* (1983), 3 D.L.R. (4th) 16 (S.C.C.)
13. *Labatt Breweries of Canada Ltd. v. Attorney General of Canada* (1979) 110 D.L.R. (3d) 594.
14. David McQueen, "Commentary on James C. MacPherson, 'Economic Regulation and the British North America Act' ", *Canadian Business Law Journal* 5 (1980-81), pp. 225 and 227.
15. *Dominion Stores Ltd. v. The Queen* (1979), 106 D.L.R. (3d) 581.



## Sharing the Benefits of the Economic Union

Canadian politics, it often seems, is the politics of regional interests and of regional grievance. Subjects which other countries more often discuss in terms of relations between capital and labour, Canadians discuss primarily in terms of regions and provinces. The question "Who gets what?" is expressed in terms of territory and geography. This is a constant of Canadian history, one grounded both in our varied social and economic structure, and in our political institutions as well. Canadians have recently emerged from a period in which this regional perception of advantage and disadvantage has been particularly evident. Throughout the 1970s, the issues which most divided Canadians seem to have pitted region against region. These perceptions frequently emerged in this Commission's hearings.

Across the country, we found a considerable sense of grievance: a sense that decisions made by the federal government do not reflect the needs of the regions affected by them, and less frequently, but still not insignificantly, that decisions are made which discriminate against certain regions. Survey results indicate that Canadians were divided in their responses to the question of whether their province had been treated fairly by the federal government. In a 1977 survey of five provinces, a slight overall majority believed that their province was treated fairly all of the time or most of the time. Only Ontario residents, however, were strongly positive in this view, while majorities in P.E.I., Quebec, Saskatchewan and B.C. considered that their province was treated fairly only some of the time, or, an infrequent response, none of the time. In a 1979 survey, more Canadians (31.5%) responded that their region paid more than its fair share of the costs of governing Canada than replied (5.4%) that their province paid less than its fair share. The most frequent response, however, (63.2%), with majorities in every province except Alberta (50.0%) believed that their region paid its fair share.<sup>1</sup> The picture, therefore, is mixed. The fact remains, however, that many Canadians sense that the "Confederation bargain" has somehow not worked out fairly, and that the federal government has at times been less the "national government" than the instrument of the most populous parts of the country.

Such beliefs stem from many sources. In part, they are the result of a sense of provincial identity in which the economic health of a particular province remains a vital reference point. The actions of provincial governments often reinforce these perceptions. They are, to some extent, a political, rather than an economic, phenomenon: a sense of exclusion from power in the national capital can powerfully reinforce regional grievances.

Regional grievance is not a new element in Canadian politics. Indeed, it has been a constant theme since the first days of Confederation. Regional protests have fuelled a succession of movements of political protest in the West: the Progressives, the United Farmers, Social Credit, the Co-operative Commonwealth Federation. Regional issues have also been a significant element of successive expressions of Quebec nationalism. While regional parties have been less successful in Atlantic Canada, groups such as the Maritime Rights movement of the 1920s have often expressed regional grievances in frequent calls for "better terms". Throughout Canada's history, regional grievances



have been expressed both as demands for more provincial autonomy that would allow provinces to shape their own future, and as demands for federal policies that would be more responsive to regional interests. Regional protests are simultaneously requests for a greater influence in national decision making, and insistence on the assertion of greater autonomy and freedom to make one's own decisions.

The sense of unfairness that has sometimes surfaced in Canadian experience has had different sources at different times and in different places. In the West, grievances were originally rooted in the perception that the National Policy treated the region as an economic hinterland to central Canada, as a source of raw materials and export earnings, and as a protected market for central Canadian manufacturing, transportation and financial interests. Historic conflict thus centred on issues such as the tariff and, to a lesser extent, on transportation policy. In the 1970s, it hinged on the provinces' sense that they were being denied the full benefits of the rising value of their natural resources, which they regarded as the means by which they could diversify their economies and shift economic and political power away from central Canada.

In the Maritimes, grievances were fuelled by the long decline of the Maritime economy in the nineteenth century, by the declining importance of the region to the country as a whole, and by the persistence of regional disparities. In the 1970s, resentment increased about continued dependence on transfer payments, at the same time that Nova Scotia and Newfoundland, in particular, realized the possibility of transforming their economies by developing off-shore resources. In Quebec, grievances stemmed from the perception that national policy favoured Ontario's economic development, and that the constraints of federalism limited Quebec's ability to take charge of its own economic development. Ontario also tended to react to the events of the 1970s in a "regional" fashion as it became aware that its dominant position in the Canadian economy was being threatened both by the increase in resource revenues in the West and by the assertions of nationalism in Quebec.

Provincial governments tended to express these regional grievances through complaints about the role and actions of the central government; they took the view that the pattern of economic development in Canada was not the product of natural economic forces, but rather of the exercise of political power by major interests acting through the central government. They also called on the federal government to redress the forces of the market by using its authority to compensate those regions which the market tended to leave behind.

Thus growing expectations of the role of government reinforced Canadians' tendency to see politics in regional terms. Moreover, the increasing importance of international forces on domestic life further supported a regionalist view. The diversity of provincial economic bases meant that international forces were likely to have different domestic effects. Consequently, regional strains of the 1970s pitted resource producers against resource consumers and manufacturers, or set areas with an interest in higher

resource prices against those with an interest in lower ones; they, however, were not primarily the product of domestically generated pressures, but rather of international forces which dramatically altered the terms of trade among Canada's regions.

All of these perspectives were reflected in the "battle of the balance sheets" that occurred in the late 1970s. This controversy involved elaborate and often polemical efforts to assess which parts of the country were or were not "losers", and to identify the regional distribution of the costs and benefits of federal government activities. There were few, if any, conclusive answers. It was easy enough to identify the sources of federal tax revenues, or show where Old Age Security, Family Allowances or regional development grants went; but it was much more difficult to assess the regional effect of broad structural policies. And indeed, to many Canadians, the entire attempt to identify regional winners and losers was misguided: was it not, after all, the national economy and the welfare of individuals which were important? These questions highlight the disjunction between our tendency to view Canada as a collection of regional economies with historic grievances, and our sense of Canada as a national economy in which each of the parts contributes distinctively to the well-being of the whole.

This approach also missed many of the more subtle dimensions of our sense of fairness with respect to the distribution of costs and benefits. Virtually all policies and programs distribute their benefits and costs differentially, and we assess such distributions in terms of many categories, including income classes, age and sex. Differences in regional benefits may be explicit and intentional, or they may be the result of redistributive policies defined in terms of other categories. For example, policies to assist the elderly will confer greater benefits in those provinces where the highest proportions of elderly Canadians reside. Moreover, where policies do deliberately discriminate, we tend to view them in different ways: discrimination in favour of the disadvantaged or the poor provokes different reactions from that in favour of the rich and powerful. Finally, we judge fairness not in terms of a single policy or program, but in terms of the cumulative effects of many policies; it is a systematic, repeated lack of response, or discrimination, which leads to alienation.

We Commissioners do not attempt to present our own balance sheet of Confederation. Rather, we focus on two specific policies: equalization and regional development. Both of these are aimed at alleviating the persistent regional disparities in the Canadian economy. Equalization and regional development are complementary policies. Equalization is intended to reduce the fiscal consequences of relative underdevelopment. Regional economic policy is intended to reverse underlying economic disadvantages. The more successful the latter, the less need there is for equalization.

Commissioners believe that the question of real and perceived fairness is very much a political issue. To the extent that Canadians focus their allegations on the "unfairness" and unresponsiveness of the central government and its agencies, reform must focus there. Fairness also has a federal dimension. It implies that provinces have a legitimate concern with the economic development of their own regions. It also suggests that provinces

must feel reasonably secure in the exercise of their constitutional powers and in the ownership of the resources within their borders. These last are essential to the exercise of an effective provincial role in economic development.

## **Equalization**

Of all the issues discussed during successive rounds of constitutional debate, there was almost unanimous agreement to entrench in section 36 of the Constitution the commitment to equalization. In so doing, Canadians gave formal recognition to an essential component of the Confederation bargain: the idea that all citizens have a right to “reasonably comparable levels of public services” from their provincial governments at “reasonably comparable levels of taxation”. Variations in policy to reflect local preferences were desirable; variation in the nature and quality of services because of inequalities in the ability to provide them was not.

The equalization program represents the most long-standing and explicit commitment to interregional sharing in Canada. It consists of unconditional payments from the federal government to the less well-off provinces. In 1985–86, these payments are estimated at \$5 billion, payable to all provinces except British Columbia, Ontario, Alberta and Saskatchewan.

The apparent provincial-federal harmony suggested by agreement to entrench section 36 exists in spite of widespread misunderstanding about the actual nature of Canada’s equalization arrangements. Equalization is often confused with regional development programs or income-maintenance and security measures for individuals. In the acrimony that followed the adoption of the National Energy Policy, Western separatist leaders sometimes portrayed equalization as a device for making direct transfers from energy-rich western provinces to energy-poor eastern ones. Various quarters have criticized equalization as too generous or as not generous enough; as necessary to an efficient allocation of capital and labour, or as a prime cause of distortions in these patterns; as too mechanical and routine, or as too *ad hoc*.

In Commissioners’ view, equalization is a vital feature of the Canadian federation. While there are many reasons to be proud of what Canadians have achieved in this area, there is room for improvement. In view of the confusion surrounding the topic, Commissioners wish first to review the bases of our equalization arrangements.

## ***Principles of Equalization***

Equalization schemes would be unnecessary in a unitary state, where all taxes are paid to one government, and all public sector benefits flow from it. The government need not, and almost certainly would not, treat all individuals identically: higher-income groups would pay a larger portion of their income as tax; large families would receive more substantial basic deductions from gross income than would small families; those without earnings would receive more in the way of transfers than they would pay as tax. Such imbalances in



the tax-expenditure system would be deliberate; they would reflect, however imperfectly, a judgement about the fair distribution of benefits and burdens.

In a federal state, however, citizens are faced by two tax systems, and two sources of public goods and services. Their treatment by provincial governments would almost certainly vary. Some provinces would decide to provide relatively more goods and services through the public sector and to finance them through higher taxation. Others opt for more or less redistribution among income classes. Indeed, if there were not these differences among provinces, reflecting different local values or preferences, one of the main reasons for federalism would disappear.

Such provincial variations are not, in themselves, a problem. If governments faithfully implement the wishes of the local majority, the system is working as it should. Canadian diversity is reflected in variations in policy at the provincial level. With free interprovincial migration, the arrangement is even more likely to conform to citizens' preferences. In theory, by voting with their feet, citizens "sort" themselves into relatively homogeneous subgroups: those who prefer an active public sector go to provinces offering this feature, while others move to areas where the provincial government takes a different approach.

There is, however, another, less acceptable, reason for variation among provinces. Not all provinces were "created equal" in an economic sense. Per capita incomes vary owing to such factors as resource endowments, occupational and industrial mixes, degrees of urbanization, or ease of access to major markets. A lower average income, which reflects lower wages, smaller returns to investments, and less remunerative land and resource rents, means a lower fiscal capacity for the government of the region; that government will raise less revenue from a given taxation effort than will a wealthier neighbour. Consequently, a poorer province will either have to provide a lower level of government goods and services at tax rates comparable to those of other provinces, or it will have to impose higher tax rates to finance a comparable level of services, or it will "package" some combination of higher taxes and lower services. Whatever situation prevails, citizens in a poorer region will be treated differently by government from their counterparts in other provinces. This follows inevitably from the fact of unequal regional economic endowments.

Some might argue that such differences are simply the price of a federal system: provinces can only be truly free to design their own taxation and expenditure policies if they have full fiscal authority. If the result is a variation in interprovincial fiscal capacities, such variation is inherent in federalism. Federal income-maintenance and security programs will apply to those individual Canadians in genuine need of support.

Commissioners reject this argument for two reasons. First, and most important, this reasoning compromises our understanding of what it means to be Canadian. An essential element of citizenship in this country must be relatively equal access to basic government services, irrespective of place of residence. While Commissioners are content to see the provision of these services decentralized, we are loath to accept too much variation in individual



access to them across jurisdictions. This commitment to regional equality arises from the same foundations as our commitment to social welfare policies.

Equalization reflects Canadians' sense of a common obligation, of our interconnection and of well-being and satisfaction with the national community. These last convictions depend on our assurance that all of us are fairly sharing the benefits, and bearing the burdens, of maintaining our society. Equalization adds an important regional dimension to this sense of shared belonging: it implies that a strong Canadian community encompasses the existence of strong, healthy provincial communities. Individual equity alone does not capture our commitment as Canadians to these provincial communities. It is ultimately because of shared membership in the whole Canadian community that we understand the necessity for ensuring the vitality of each of its constituent parts.

If the first justification for equalization is one of equity and social justice, a second is efficiency. Recent research has shown that variations in the fiscal capacities of provincial governments can themselves constitute distortions which reduce aggregate national output. This result can be corrected by a properly designed equalization scheme. Since the efficiency argument is a recent one, and since it underlies so much of recent debate, as well as this Commission's recommendations, it is worth sketching briefly.<sup>2</sup>

National output is maximized when capital and labour are allocated across regions so that the contributions to gross national product (GNP) of the last unit of capital employed and the last unit of labour employed are identical. Under normal circumstances, free internal migration of capital and labour will automatically produce this optimal allocation of capital and labour. As long as productivity differences are reflected in wages or rates of return, and as long as at least a fraction of the labour force or of investors is sensitive to the earnings possibilities associated with such differences, migration will flow from low- to high-productivity regions.

But what if significant differences exist in the fiscal capacities of provinces? An employee who is contemplating migration is likely to compare not just private earnings across regions, but also the treatment to be expected from the public sector. If one jurisdiction promises greater government services relative to taxes than does another, and if expected earnings are similar, the migrant has an incentive to choose the location offering more generous treatment. The result could be an influx to this province, driving down wages and salaries to the point where the expected tax-expenditure benefits just offset the lower private earnings. The opposite is true of the fiscally poor region; private earnings must be higher to offset the relative paucity of tax-financed goods and services. This "fiscally induced migration" responds to policy signals rather than to market signals based on the most productive allocation. The result may be lower output, since there will be too many workers in fiscally generous regions and too few in the others.

Equalization payments provide a means of responding to both equity and efficiency problems in a federation. Provincial governments that have a fiscal capacity below an acceptable standard receive unconditional revenue

transfers, reducing the fiscal discrepancy among provinces. The transfers compensate, in effect, for the province's lack of a natural tax base. When fiscal differences are narrowed or removed, Canadians, wherever resident, achieve a more similar status in their overall relations to government, and the incentive for socially inefficient migration is reduced.

The transfers are intended only to make it possible for any province to provide basic public services at a prescribed standard without imposing undue taxation. Whether a province actually chooses to provide particular services, or how it allocates the funds, is entirely its own responsibility. As the Royal Commission on Dominion-Provincial Relations (the Rowell-Sirois Commission) stated, when discussing its National Adjustment Grants (the forerunner of equalization):

*If a province chooses to provide inferior services and impose lower taxation it is free to do so, or it may provide better services than the national average if its people are willing to be taxed accordingly, or it may, for example, starve its roads and improve its education, or starve its education and improve its roads . . .*<sup>3</sup>

Thus, equalization payments are a means to ensure that all governments can adequately carry out whatever responsibilities they were assigned. Equalization involves no diminution of provincial freedom or authority, and no federal control over provinces. Indeed, to make equalization payments conditional in any way would obviate the very essence of federalism.

Equalization is an essential feature of Canadian federalism. It effectively reconciles the principle of provincial autonomy with the principle of equal access of all Canadians to basic government services. Without it, Canadians would require a more highly centralized federation or would need to be willing to tolerate greater differences in standards of living and less efficient migration of labour and capital. The Rowell-Sirois Commission was the first to make this point when explaining its proposal for National Adjustment Grants:

*They are designed to make it possible for every province to provide for its people services of average Canadian standards and they will thus alleviate distress and shameful conditions which now weaken national unity and handicap many Canadians. They are the concrete expression of the Commission's conception of a federal system which will both preserve a healthy local autonomy and build a stronger and more united nation.*<sup>4</sup>

While circumstances have obviously changed from the post-Depression years of Rowell-Sirois, the sentiment is still valid.

To suggest that an equalization scheme is desirable raises two questions. First, should fiscal differences among provinces be fully, or only partially, equalized? There is a host of subsidiary technical issues associated with this question. Secondly, should the central government, the provinces, or the two orders of government combined operate and fund the program?

There is no right answer to the question, "How complete should equalization be?" The traditional response in Canada has been, in the words of the Rowell-Sirois Commission, that equalization is necessary to achieve "average

standards of services in every province.” A former federal Finance Minister stated that the goal of equalization was to enable “each province to provide an adequate level of public services without having to resort to rates of taxation substantially higher than those of other provinces.”<sup>5</sup> Significantly, nearly the same words appear in section 36 of the Constitution Act, 1982:

*Parliament and the government of Canada are committed to the principle of making equalization payments to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation.*

Theoretically, it is relatively easy to design an equalization scheme that embodies the principle of reasonably comparable standards. In the approach that has evolved in Canada during four decades, the formula provides an equalization payment for any province in which average or representative provincial tax rates (not its own tax rate) would yield less revenue per capita than the yield in Canada generally. In the method used, an average or representative provincial tax base is first specified by listing all main revenue categories open to the provinces. Next, a representative provincial taxation effort is calculated. Here a taxation rate judged to be representative of the provinces overall is set for each of the revenue categories in the base. Applying those taxation rates to the base and standardizing for population, yields the revenue a province would collect if it had an average or representative fiscal capacity and levied average taxation rates. This figure represents the minimum amount of revenue that it is deemed a province of this size should be guaranteed.

The next step in the procedure is to calculate the actual tax base of each province. This calculation is done for each of the revenue categories contained in the representative base. Applying the representative or average provincial taxation effort (*not* the province's own tax rates) to this base produces the total revenue the province could raise if it taxed each of its revenue sources at national average or representative rates. If this figure exceeds the revenue floor as calculated above, it creates no problem.

Equalization entitlements are necessary, however, when a province's revenues from taxing its own base at representative or average rates fall short of the revenue floor. Since equalization is guaranteed to cover this shortfall, the province can duplicate the public sector performance of the representative or average Canadian province.

The important point to note is that the revenues which the province actually collects do not enter directly into the calculation. The comparison is not between what could be and what is; rather, it is between what could be if the province were the representative or average Canadian province, in terms of both tax base and taxation effort, with what could be if the province chose to tax its actual base at national average or representative rates. How the province actually taxes does not directly affect its equalization entitlements. If it taxes at greater than representative rates, its total revenue will be that much greater; equalization entitlements will not fall. Conversely, if it chooses to tax less, its equalization entitlement does not rise. This is the practical counterpart of the Rowell-Sirois principle of unconditionality.



To implement these general guidelines involves a large number of technical problems. What exactly would constitute a representative provincial tax base? Should all revenue categories potentially open to provinces be included, or only those they actually use? How should the situation be affected if not all provinces use all revenue sources open to them? Should it change if they do use all revenue sources available, but sometimes treat them quite differently? What is the proper basis for taxing each revenue category? Should the representative taxation level be hypothetical, or should it be linked to what Canadian provinces do in practice? Should profits of Crown corporations be considered government revenue? These are just a few of the possible questions to be considered in designing an equalization scheme. Sometimes, as we shall see below, the wrong design can create more general problems for equalization.

### *Canadian Experience*

The first specific proposal for a formal equalization scheme was the National Adjustment Grants proposed by the Rowell-Sirois Commission. Previous attempts to even out discrepancies in provincial fiscal capacities were either implicit or *ad hoc*. The transfers to the provinces agreed to by the federal government in 1867 were, by their nature, equalizing in that they were per capita grants. There was no connection between the amount the federal government collected from residents of any province and the transfers made to that province. In addition, special payments were given to individual provinces or even to entire regions. New Brunswick received these special payments from the outset; Nova Scotia began to receive them a short time later. In 1926, the Royal Commission on Maritime Claims (Duncan Commission) investigated the financial claims of the Maritimes, and the Royal Commission on Banking and Currency in Canada (White Commission) did so, in 1933, for both the Maritimes and the Prairies. It took the depression of the 1930s and the imminent bankruptcy of several provinces to demonstrate that these *ad hoc* arrangements were not enough.

National Adjustment Grants, together with most of the Rowell-Sirois Commission's recommendations, were casualties of wartime emergency. The federal government assumed exclusive control of personal and corporate income tax and succession duties, paying "rents" to each province according to a predetermined formula which, like its forerunners, was implicitly equalizing. Equalization, as Canadians know it today, was formally implemented in 1957. The tax-sharing arrangement introduced in that year linked the amount that the federal government transferred directly to each province to the revenue collected from that province. Each province received 10 per cent of the personal income taxes collected in the province, 9 per cent of the corporate profits, and 50 per cent of federal succession duties. Clearly, 10 per cent of the personal income tax collected in a richer province represented more revenue per taxpayer than it did in a poorer one. To compensate for these differences, the federal government unconditionally transferred to each of the poorer provinces an amount that would bring its per



capita yield from these three standard taxes up to the average yield of the two wealthiest provinces (Ontario and British Columbia). By this calculation, every province but Ontario qualified for equalization transfers, and a total of \$139.1 million was paid out to nine provinces in the 1957–58 fiscal year.

From the outset, the equalization system has become progressively more comprehensive. In 1962, provincial natural resource revenues were added to the tax-base calculation. The standard was also lowered to the national average yield of the taxes in the base. These two changes made Alberta and British Columbia ineligible for equalization payments. In 1967, 16 provincial revenue sources, including those not shared with the federal government, were added to the tax base. The number of taxes in the base was increased to 19 in 1972 and to 29 in 1977, thus bringing equalization more and more into line with real taxation practices.

During the 1970s, the equalization scheme was severely tested as a result of the dramatic increase in natural resource revenues concentrated in Alberta, British Columbia and Saskatchewan. Since the scheme involves federal payments, compensation was owed to all other jurisdictions, including populous Ontario and Quebec, for their lack of such revenues, even though the federal government, in a practical sense, did not have direct access to these revenues. Moreover, Ontario soon became a “have-not” province and would have qualified for payments. All of this was taking place in a period of rising concern about the size of the federal deficit in general. A series of *ad hoc* adjustments to the formula followed, mostly redefining the way energy revenues were treated. The rules were changed to exclude provinces with per capita incomes above the national average from eligibility for such compensation. Rising energy revenues required that the concept of “full equalization” be abandoned.

More than just technical or design issues were at stake during this period. The large energy revenues accruing to the Western provinces, Alberta in particular, raised anew the more basic question of determining appropriate equalization. Specifically, were other provinces entitled to larger equalization payments simply because Alberta’s fiscal capacity was suddenly and dramatically increased? (In 1980, Alberta’s “own-source” revenues had risen to 232 per cent of the national average.) Questions arose concerning, for instance, the way Alberta’s windfall affected the demands a Nova Scotian placed on provincial public services. Past Canadian practice of reasonably comparable levels of services at reasonably comparable tax rates provided little guidance. Was the comparison to be made to the wealthiest provinces, as in the 1957 formula? If so, essentially full equalization of energy revenues was required. Or was it to be made only with national average tax yields, as in the system then in place, recognizing that this meant that slightly less than half of the energy revenues would be equalized? Were “adequate” standards more or less demanding than “comparable” ones? If so, this would imply the applicability of a relative rather than an absolute criterion. The federal government was finding even this more limited commitment increasingly difficult to finance. Without the energy-related changes to the formula, 1981–82 equalization payments would have been nearly \$3 billion above the

level of the \$4.61 billion otherwise estimated. Each additional dollar of resource revenue accruing to provinces would have required Ottawa to increase its outlay on equalization by 75 cents.<sup>6</sup>

Some analysts argued that there was no need to equalize any of this windfall gain. Because one province is suddenly wealthier, the ability of others to supply an acceptable level of public goods at an acceptable tax level has not been eroded. In other words, greater government revenues in one province do not create greater needs in another. Others argued for the alternative view that such dramatic differences as existed between the fiscal position of Alberta and the rest of the country were untenable. The fact that the largest province had experienced the greatest relative decline, and a smaller one had experienced the boom, gave political weight to this argument, since the residents of the more populous provinces could use their political influence on the national government to bring about greater sharing, either in the form of transfers or in lower prices.

For the first time, efficiency considerations also played a significant role in equalization debates. Some observers alleged that since Western energy revenues were only imperfectly equalized, an imbalance was created in the migration of capital and labour from one province to another. This imbalance, it was argued, was detrimental to Canada as a whole, since it was induced by government revenues rather than by enhanced economic opportunities. Research studies did indeed demonstrate some sensitivity of migration flows to net fiscal differences among provinces.<sup>7</sup> One contribution to the debate alleged that without a proper equalization scheme in place, the costs to Canada of moving to world energy prices would likely exceed those associated with keeping oil prices at an artificially low level.<sup>8</sup> The point was that efficiency dictated some equalization of resource revenues even if one were not convinced that it was required to achieve greater equality among Canadians.

The best-known exponent of this "new" view of equalization was the Economic Council of Canada (ECC) in its report *Financing Confederation: Today and Tomorrow*.<sup>9</sup> There, the concepts of provincial equity and economic efficiency were proposed as formal pillars of an equalization scheme, to replace the much less precise "comparable standards" criterion. This led the Council to propose full equalization of all provincial revenue sources, except those associated with resources. Only partial equalization of this last category was recommended. The Council argued that since resources are constitutionally the property of provincial residents, they should be treated as if they were private income and taxed at the prevailing personal or business-tax rate. Only the expected yield from applying this rate would count for equalization purposes. The ECC made a number of other proposals, most notably that the forgone revenue from low-priced hydro-electricity in Ontario and Quebec be counted as resource revenue.

The Council's views appeared too late to influence the negotiations leading to the current equalization measures. As part of the 1982 Fiscal Arrangements Act, these measures incorporated several changes from the previous formula. Equalization to the national average was replaced by equalization to a "five-province standard". Provinces were to be paid the difference between

their hypothetical revenue at national average tax rates and a representative level of funds obtained by applying national average tax rates to the weighted average per capita tax base of Ontario, Quebec, Manitoba, Saskatchewan, and British Columbia. Leaving Alberta out of the standard effectively did away with the energy-revenue problem; the formula simply ignores any revenue that province now receives. The exclusion of Alberta lowered entitlements stemming from resource revenues, but excluding the four Atlantic provinces raised entitlements based on most other revenue sources.

The 1982 Fiscal Arrangements Act also included other changes in equalization arrangements. Coverage was extended to include municipal revenues and 100 per cent of resource revenues; however, the exclusion of Alberta meant that the resource revenues included were a small fraction of those previously counted. A cap was placed on payments, limiting their growth to no more than the increase in the gross national product (GNP) since 1982. A minimum level of payment guarantee and transitional payments were included to offset the effect of particular changes in individual provinces. Quebec and Manitoba were the main losers from the changes; the position of the Atlantic provinces remained virtually unchanged. The effect of moving to the new system was to reduce equalization entitlements (including transitional payments) by 11 per cent or \$560 million in 1982–83, although the payments were still some 13 per cent above those made the previous year under the formula then in effect.<sup>10</sup>

### *The Success of Equalization*

Has equalization been effective in smoothing out differences in fiscal capacities across provinces? Have Canadians met the standards set by the Rowell-Sirois Commission 45 years ago? Since there is no precise measure of fiscal capacity, there are no definitive answers to these questions. Indirect measures, however, can be used to gain an idea of the influence of equalization.

The obvious first step in assessing relative fiscal capacities is to compare actual revenues per capita across provinces. These data are presented in Table 22-9. The first row indicates “own-source” revenue, that is, funds the provinces raised in 1981–82 by applying their own tax rates to their own taxation base. The variation among provinces is striking, ranging from per capita revenues of \$1026 for Nova Scotia to \$3900 for Alberta. The latter province, with its huge energy revenues, is admittedly an extreme example. By excluding Alberta and Saskatchewan, the range is considerably reduced: from \$1026 to \$1765. Nevertheless, there is a large disparity in the revenue available to the provinces; the four Atlantic provinces and Manitoba are the poorest, and Quebec, Ontario and British Columbia rank between them and Alberta and Saskatchewan.

The second row of Table 22-9 adds federal transfers other than equalization to own-source revenue. Since some transfers, are implicitly equalizing, the disparity among provinces is reduced to some degree, but it remains significant. Equalization transfers are added in the third row. This addition reduces significantly the disparity and the provinces’ ranking changes.

TABLE 22-9 Equalization and Provincial Finances, 1980-81

Row	Nfld.	P.E.I.	N.S.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.	Total
1. Own-source revenues (\$ per capita) <sup>a</sup>	1 228	1 090	1 026	1 092	1 648	1 455	1 276	2 121	3 900	1 765	1 749
2. Own-source revenues plus federal transfers other than equalization (\$ per capita) <sup>b</sup>	1 871	1 745	1 653	1 692	2 272	1 973	1 836	2 631	4 422	2 335	2 308
3. Gross provincial revenues (row 2 plus equalization) (\$ per capita)	2 514	2 445	2 176	2 224	2 543	1 973	2 169	2 672	4 422	2 335	2 449
4. Equalization as a percentage of own-source revenues <sup>c</sup>	52.4	65.1	51.0	48.7	16.5	0.0	26.1	1.9	0.0	0.0	8.1

Source: Thomas J. Courchene, *Equalization Payments: Past, Present and Future* (Toronto: Ontario Economic Council, 1984), p. 153.

a. Population figures from Department of Finance (1982a, 15).

b. Same tables as in a above.

c. Equalization data adapted from MacEachen (1981, Table V-1). Own-source revenues calculated from Table II-4 of the same document.



Alberta is still the wealthiest province, but Ontario goes to the bottom of the list. Without resource revenues and decreed ineligible for equalization, Canada's most highly industrialized province apparently has the lowest fiscal capacity. The importance of equalization to some provinces is evident from the fourth row of Table 22-9. The payments amount to nearly two-thirds of the revenue Prince Edward Island is able to raise for itself and to about half the corresponding revenues for the other three Atlantic provinces.

The figures in Table 22-9, however, do not give an entirely accurate measure of relative fiscal capacities. They show the provinces' actual revenue, and therefore are a result both of revenue potential and of revenue-raising efforts. Since the purpose of equalization is to even out the ability of provinces to generate funds, a better test of the effects of the arrangement is to look at the results that would occur if each province were to apply the same rates.

Table 22-10 shows indices of tax base per capita for three periods since 1972. The first three rows demonstrate the considerable variation that exists for own-source revenue. While Alberta's own-source revenue is currently 217 per cent of the national average, Prince Edward Island's is only 55 per cent. The other Atlantic provinces do not fare much better. It is these figures, more than any others, which demonstrate the great need for equalization in the Canadian federation. Without compensation, the differences in the abilities of provinces to provide for their residents' welfare would be unacceptably high.

The variation among provinces has increased significantly since 1972, as a result of the sizeable Western energy revenues. The fourth to sixth rows of Table 22-10 demonstrate this point clearly. Note, however, that even without resource revenues, Alberta and Saskatchewan have still benefited the most from increased funds. This is because personal and business incomes are higher, retail sales are greater, and so on as a spin-off from energy activity. Finally Commissioners wish to point out the difference in Quebec's position in the two tables. Its relatively high figure in Table 22-9 compared to its relatively low position in Table 22-10 is a result of higher-than-average tax rates and demonstrates the importance of standardizing for actual taxation efforts when comparing relative fiscal capacities.

The seventh to ninth rows of Table 22-10 show the effect of equalization payments. These payments greatly reduce the variation among provinces. Prince Edward Island's revenues are now 83 per cent of a national average that is still highly inflated by Alberta's revenues. The position of the seven easternmost provinces varies only from 83 to 88 per cent of the national average. The addition of other federal transfers, as is shown in the final three rows of the table, reduces disparities further. The Atlantic provinces now have potential revenues of about 90 per cent of the national average. Ironically, Ontario now has the lowest potential revenues: 87 per cent of the national average. This is not because of low tax rates, as Ontario's tax effort is the average for the country; it does, however, explain why Ontario qualified for, but did not receive, equalization payments during the 1977-82 period. British Columbia and Saskatchewan stand fractionally above the national average; Alberta remains far out in front.

TABLE 22-10 Indices of Tax Base per Capita, Selected Fiscal Years

Measure of revenue base	(national average = 100)									
	Nfld.	P.E.I.	N.S.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.
Own-source revenues <sup>a</sup>										
1972-73	62	59	72	71	85	110	90	85	134	120
1976-77	60	57	66	67	82	99	85	106	201	112
1981-82	59	55	66	66	78	94	79	112	217	111
Own-source revenues less natural resources										
1972-73	61	62	75	72	87	115	93	82	111	114
1976-77	62	62	72	73	89	108	92	101	128	112
1981-82	62	62	73	73	87	104	87	103	139	114
Own-source revenues plus equalization										
1972-73	85	84	87	87	90	104	93	94	125	113
1976-77	85	85	86	86	88	93	90	100	188	105
1981-82	83	83	84	84	86	88	88	105	203	104
Own-source revenues plus all transfer payments										
1972-73	95	102	91	92	95	101	95	93	121	106
1976-77	92	104	91	93	93	91	93	100	171	103
1981-82	90	96	89	92	90	87	90	106	186	102

Source: Thomas J. Courchene, *Equalization Payments: Past, Present and Future* (Toronto: Ontario Economic Council, 1984), p. 158.

a. Own-source revenues and equalization payments are determined on the basis of the *new* equalization formula as far as tax bases are concerned. What this means is that all renewable energy resource revenues and all property taxes enter the equalization formula. The equalization standard, however, is the national average level and not the five-province average that characterizes the present formula.

These figures demonstrate that equalization and other federal transfer payments are indeed producing an effect. They do a great deal to even out the access of provincial treasuries to public revenues. Commissioners would conclude that equalization has certainly contributed very significantly to reducing interprovincial differences in fiscal capacity.

The trend toward greater equalization appears to have stopped, however, and even perhaps to have been reversed, owing to the effect of energy revenues and, to a lesser extent, to that of the need for restraint: "Over time the level to which provincial revenues are equalized is falling relative to the national average level of fiscal capacity."<sup>11</sup> Thus, in 1972-73, after all transfers, no provincial government fell below 90 per cent of national average fiscal capacity. In 1981-82, however, two provinces did fall below this level. In 1972-73, the richest province had a capacity of 121 per cent of the national average; in 1981-82, it had 186 per cent of that average. More recent changes will also somewhat reduce the equalization commitment. It has been calculated<sup>12</sup> that for 1982-83, the new "five-province standard" reduces the total equalization payment by \$732 million from what it would have been under the old formula, to \$4.557 billion; but this reduction has been tempered by transitional payments to Quebec and Manitoba, the provinces hardest hit by the change. The capping of equalization payments by the rate of increase in GNP also signals that growth in equalization will not be open-ended.

Through equalization, Canada has dramatically reduced differences in the capacity of provinces to provide services for their citizens. Nevertheless, the disparities among provinces remain substantial, and the system has had great difficulty coping with the uneven effect produced by oil and gas revenues. Recent changes have reduced the overall level of equalization somewhat. We Commissioners also wish to emphasize our view that the concept of sharing, embodied in equalization, remains strongly supported by Canadians across the country. While specific aspects of the program are controversial, it is clear that the constitutional commitment of section 36 reflects national consensus.

### *Issues and Proposals*

Canadians must first decide on the interpretation of the principle underlying equalization in Canada. Is a conservative interpretation of the words in section 36 of the Constitution Act, 1982, "reasonably comparable levels of public services at reasonably comparable levels of taxation", to prevail? Or is equalization to be a way for the less-prosperous jurisdictions in the country to share equally and automatically in the fortunes of their wealthier neighbours?

There is no correct answer to this query; the decision ultimately represents a judgement about the goals of Canada's federation. Commissioners are inclined to support a rather more generous interpretation of the nation's commitment to equalization than that inherent in the current equalization program. It is time, we believe, to go beyond a simple, minimum-standards criterion towards a fuller measure of revenue equalization. We base our recommendation for this move on one important reason: the provinces have clearly assumed a much greater role in the federation than they played in

1940, when Rowell-Sirois reported, or even in 1957, when the first equalization scheme was established. Individual Canadians are now much more dependent for a wide range of services on their provincial government. Given general acceptance that this is the direction which Canadians favour, the ability of provincial governments to provide these services becomes that much more important. Correspondingly, disparities among provinces become less tolerable.

The next question, to which, again, there is no correct answer, is: Who should operate the program? The answer depends on Canadians' view of the federation. Three models might be followed. First, equalization might remain the sole responsibility of the federal government. That government would almost certainly wish to consult with the provinces and with other interested groups, but it would not necessarily be bound by any representations. A variant of this model would give the provincial governments a somewhat more formal opportunity to contribute to program design, perhaps in exchange for granting the federal government access to tax sources such as resource revenues, which are now mainly a provincial responsibility.

The logic of the first model is that redistribution within the federation is, and should be, a responsibility of the national government. The problem is that the federal government's financial commitment is, in large part, a function of provincial taxation policies, yet Parliament is required to equalize revenue sources in which it does not share.

In recent years, a second, more confederal model, has attracted some attention. Some observers have suggested making equalization an interprovincial matter in which provinces would share among themselves. Each province's fiscal capacity would be calculated separately. Jurisdictions with a surplus would then contribute to a fund out of which payments would be made to financially disadvantaged regions. The calculations would include all revenue sources, even forgone revenue. The arrangement would be run exclusively by the provinces themselves; they would have to decide what percentage of fiscal surpluses would be taxed or what fiscal deficits compensated.

A third option is a "two-tier" scheme which would split equalization responsibilities between the two orders of government. While there are a number of proposals of this type, they all start by distinguishing resource revenues from all others, since resource revenues are fully within the provincial domain. The central government would continue to operate an equalization scheme similar to the pre-1982 arrangement, but without resource-revenue categories. Revenues to be paid out under this first tier would come from tax bases, many of which are shared with the provinces. Thus, if disbursements rose because of additional income-tax revenues in a rich province, the federal government would have access to the revenues, as well as responsibility for the payments.

Equalization of resource revenues would be the responsibility of the provinces as a group. Provincial governments would define the country's average resource-revenue capacity. As in the second model, provinces with revenues above this average would contribute some portion of their surplus to a fund from which payments would be made to provinces falling below the



average. Overall, the payments would balance exactly: total payments by resource-rich provinces would equal disbursements to the others.

Commissioners recommend that the federal government retain primary responsibility for operating the equalization program. The other two options are certainly attractive, but they suffer from two defects. There is no evidence, first of all, that the provinces would be willing to play the more prominent redistributive role required by the two other models. Trial proposals along these lines were met with great hostility a few years ago, and there is little reason to think they would fare any better today. Resource-rich provinces considered that such a scheme would deprive them of their rightful revenues; resource-poor provinces did not wish to be dependent on the good will of the more advantaged. More important, both schemes would deny the federal government some or all of its traditional redistributive role in the federation.

As we have seen, to translate the general principles of equalization into a workable scheme is an extremely complex task, especially in a volatile fiscal environment. With even minor alterations, an almost infinite number of possible "wrinkles" and statistical quirks can have important consequences for a particular province. Commissioners, therefore, can outline only some general recommendations which are consistent with our positions on sharing and with our view that the federal government is primarily responsible for equalization arrangements.

Canada should return to an equalization formula that includes all ten provinces in the base. The present system, which arbitrarily excludes five provinces from the calculation, allows too much room for distortion, strategy and unintended effects. For example, if a firm were to leave one of the excluded provinces, say Alberta, for one of the five included in the formula, say Ontario, then the equalization entitlements of recipient provinces would rise commensurate with the increase in the formula tax base. If the same firm were to move to Nova Scotia, the equalization scheme would be unaffected, since neither Alberta nor Nova Scotia is included in the five provinces used in the calculation. As one provincial finance minister stated (only half in jest), it may be to the advantage of the have-not provinces to push development expenditures Ontario's way. Equalization should be based on the broadest possible assessment of provincial fiscal capacities. To tinker with the number of provinces on which it is based in order to solve financial problems is undesirable and blurs the basic principles.

A portion of resource revenues—greater than zero but significantly less than 100 per cent—must be included in equalization. There is no magic figure, but the 20 to 30 per cent range seems an appropriate compromise between the extremes of theoretical purity and political reality. This sort of proposal has been endorsed by the Task Force on Fiscal Arrangements of 1981, the Saskatchewan government of the same year, and the Economic Council of Canada in its 1982 report.

The Task Force endorsed this proposal because, if natural resources were in private hands, 20 per cent of the sector's revenues could be expected to accrue to provincial budgets as taxes. This 20 per cent, therefore, should be the amount equalized. The Task Force also argued that only those resource

revenues used for budgetary purposes, and not those revenues being deposited in heritage funds, should enter equalization. In addition, resource revenues used to provide special or unusual benefits to citizens should be excluded. Commissioners believe that this is a reasonable approach to the thorny problem of which resource revenues to include. We also believe that the federal equalization payments arising from resource revenues should not exceed the revenues which the federal government can be said to obtain from taxation of resource activity.

The focus on rents from oil and gas resources ignores the implicit rents from other resource endowments. These, too, should be incorporated into sources of provincial revenue used in the equalization formula. Commissioners refer here mainly to the practice of underpricing electricity generated by provincial Crown corporations. The details of a proposal on this matter are included in the Economic Council's report.<sup>13</sup> We are content to endorse their view and to recommend that more work be done to make estimates of these forgone revenues more certain.

Finally, Commissioners believe that the idea of considering fiscal needs or the cost of providing services should receive careful consideration. The criterion of "reasonably comparable levels of public services" at comparable levels of taxation, set out in the Constitution, includes both sides of the equation. Most equalization schemes, however, focus only on the revenue side. They implicitly assume that the cost of providing services is the same across the country. This is obviously not so. Roads are more expensive to build in British Columbia than in Manitoba because of the terrain. A province such as Newfoundland, where services must be provided to a small, scattered, rural population, may incur greater costs than one where the population is more concentrated. Demographic profiles, which differ because of varying proportions of old people or of the unemployed, will lead to different levels of demand for services. "Reasonably comparable levels of public services" may therefore embody cost differentials, and there seems to be a strong case for building this component into the equalization system. The Australian equalization system, for instance, does so with considerable success.

There are, however, formidable obstacles to including expenditure needs in the equalization formula. To do so would require a "Representative Expenditure System"<sup>14</sup> to parallel the existing representative tax system. Canadians would have to agree on which provincial expenditures to include, and on how to assess differences in costs. Presumably, this assessment should reflect differences in per capita need (for example, the proportion of citizens of school age) and in unit costs (for instance, in building one kilometre of road). The formula would have to devise an "average" level of service, while leaving provinces free to make their own choices about whether to provide more or less of a given service. These are all formidable problems, both in concept and in the complexity of measurement and data collection that they entail. Their solution would require much more complete and standardized statistical bases. To delineate representative expenditures across the range of provincial services would entail more difficult political judgements than would agreement on representative taxes, and might also generate undesirable pressures for provincial uniformity. Nevertheless, over a long period,

Canadians have been successful in coping with the complexities inherent in an equity-based system of public finance. Commissioners believe that through the Council of Ministers of Finance, governments should begin to prepare the ground for an eventual incorporation of expenditure needs as a natural evolution of the equalization program.

## Notes

1. R. Johnston, *Public Opinion and Public Policy in Canada*, vol. 35 (Toronto: University of Toronto Press, 1985).
2. See papers prepared for this Commission: Robin W. Boadway, "Federal-Provincial Transfers in Canada: A Critical Review of the Existing Arrangements", in *Fiscal Federalism*, vol. 65, and John Vanderkamp, "The Efficiency of the Interregional Adjustment Process", in *Disparities and Interregional Adjustment*, vol. 64 (Toronto: University of Toronto Press, 1985).
3. Royal Commission on Dominion-Provincial Relations, *Report*, Book II: *Recommendations* (Ottawa: King's Printer, 1939), p. 84.
4. *Ibid.*, p. 125.
5. "Statement by the Honorable Mitchell Sharp, Minister of Finance, to the Federal-Provincial Tax Structure Committee", in *Proceedings of the Federal-Provincial Conference, Ottawa, October 24-28, 1966* (Ottawa: Privy Council Office, 1966). Quoted in Thomas J. Courchene, *Equalization Payments: Past, Present and Future* (Toronto: Ontario Economic Council, 1984), p. 47.
6. Courchene, *Equalization Payments*, p. 190.
7. For a review of these studies, see Vanderkamp, "The Efficiency of the Interregional Adjustment Process".
8. Frank R. Flatters and Douglas D. Purvis, "Ontario: Between Alberta and the Deep Blue Sea?", Discussion Paper No. 402 (Kingston: Queen's University, Department of Economics, 1980).
9. Economic Council of Canada, *Financing Confederation: Today and Tomorrow* (Ottawa: Minister of Supply and Services Canada, 1982).
10. Courchene, *Equalization Payments*, pp. 350-55.
11. *Ibid.*, p. 161.
12. *Ibid.*, Chapter 12.
13. Economic Council, *Financing Confederation*, p. 122.
14. Douglas H. Clark, "Canadian experience with the representative tax system as a means of measuring the relative fiscal capacities of provincial and local governments"; Testimony before the United States Senate Committee on Government Affairs, Subcommittee on Intergovernmental Relations, April 6, 1983.



## Regional Economic Development

For a number of reasons, few of the issues in this Commission's mandate have proved more perplexing than regional development. Our canvass of the research community revealed that relatively little is known about how and why regional economies grow. Many theories abound, but none has gained wide acceptance.

Canada's success in spurring economic growth and industrialization in poorer areas is difficult to evaluate. We have experimented with many types of programs, policies and strategies, but as Premier Hatfield of New Brunswick stated in a submission to this Commission:

*...despite the claims that significant funds have been spent, nothing which has been started has made an appreciable difference in the disparity between New Brunswick and the rest of Canada, in so far as benefits from establishing a viable industrial base are concerned.*

(Government of New Brunswick, Brief, December 31, 1984, p. 1.)

The best that can be said is that we may have prevented the less-developed regions from falling further behind.

Perhaps partly because of this limited success, regional policy has defied our best efforts to devise an appropriate management framework. There has been constant debate about the level of government that should design and implement programs, the criteria for judging need, and the appropriate link between regional policies and more general national economic initiatives, such as stabilization or transportation policy. We appear to have spent nearly as much time arguing about how to implement measures that were doomed to failure as we have in searching for new solutions.

In a federal system, regional economic disparity is an inherently contentious issue; Canada is no exception to this rule. Inequalities across regions are at least as unsettling as those among individuals within a community. Sometimes economic adjustment requires migration, which places an extra burden on the individual. In these respects, unitary states are no different from federal systems. In a federal system, however, migration can weaken the provincial communities which federalism is designed to protect. In these situations, community survival is at stake. When attachments to regional communities are as strong as they are in Canada, or when migration involves the loss of language and culture as it can for French-speaking Québécois, the costs of adjustment are that much higher. We must think of development, therefore, not only in terms of Canada as a whole, but also in terms of regional economies and the provincial communities associated with them.

This view does not stand without challenge. Criticism takes several forms. One view states that we should think about the economic development of individuals, not of regions, for individuals are the essential focus of policy initiatives. From this perspective, preservation or development of communities should not be an objective of public policy. Moreover, to focus on inequities among regions diverts needed attention from inequities that have nothing at all to do with regions or territory. So, too, the pursuit of economic efficiency may play down regional policies. To try to diversify provincial economies in



order to transform them into self-sufficient entities is to deny all Canadians the fundamental advantages of economic specialization and complementarity. Almost by definition, from this viewpoint, regional development policies divert resources from the places of their greatest productivity to places where they will produce less and thus reduce the output of the economy as a whole. There is, therefore, a direct trade-off between aggregate national wealth and the wealth of each region.

One reply to this criticism is that while there may be a short-term trade-off between regional development and national income, there need not be in the long run. To the extent that regions underemploy resources, those resources are not contributing their full potential to national output. The national economy will be stronger to the extent that each region develops its potential. The opponent of regional development policy would probably reply that granting the objective, regional policies have so far not transformed the economic bases of provinces to make them more productive. On this reading, we have been able to compensate for inequities through interpersonal and regional transfers, but we have done little to alter the conditions that hold back development.

This debate about regional policies is especially important today. Some participants have argued that in the present economic context and in the face of increasing international competition, regional development may be a luxury that we can no longer afford, at least at the levels and in the forms that we have known. The critics argue that we should submit to the discipline of the market and thus allocate resources to their most productive use, however well justified other goals might be in social or cultural terms. The argument is not that we should abandon regional policy, but that we should de-emphasize it, “tilting” policy more toward national efficiency and less toward regional development. Moreover, just as Commissioners have done in our earlier discussion of industrial and social policy, we should try to make clearer distinctions between “welfare-compensation” dimensions of policy and developmental dimensions.

If regional economic development were simply about national efficiency, Commissioners would tend to support the critics. However, as we have argued throughout this Report, well-being is a larger, more inclusive concept; and well-being in Canada has an essential regional component. Regional development policies remain vital, and they must include both the reduction of disparities inherent in the concept of interregional transfers and the development aspect inherent in the notion of making the best use of Canadian resources in all regions. Thus, while Commissioners are anxious to minimize distortions and to ensure that considerations of efficiency discipline the provision of regional development funds, we believe that regional development must remain an essential component of Canadian policy and, indeed, of the Confederation bargain.

Regional development can be as much a hornet’s nest for a Royal Commission as for governments. The stakes are large, emotions are charged, Canadians have a history of handling the process badly, and they know little about how it actually works. Nevertheless, for the reasons we have given and

because of the constitutional commitment of the Government of Canada and of the provincial governments to "promoting equal opportunities for the well-being of Canadians" and to "furthering economic development to reduce disparity in opportunities",<sup>1</sup> regional policy cannot be ignored.

## **Economic Growth, Income Distribution, Adjustment and Federalism**

To this point in our Report, we Commissioners have concentrated on three aspects of economic life: economic growth, income distribution, and adjustment. We have considered these aspects from the perspective of the national economy as a whole and in light of its effect on individuals. Our discussion has proceeded as if all economic activity took place at one geographic point. Economic growth referred to increases in real per capita gross national product. Research has classified income distribution according to age, sex, occupation, and language or ethnic group. Adjustment referred to the problems of reallocating capital and labour from sectors in relative decline to those in ascendancy.

The first step in making this analysis more realistic is to recognize that economic activity is spread across Canada and that workers and businesses have a geographic location as well as an industrial or occupational classification. We must now identify the factors that make particular regions grow, and determine how regional economies affect, and are affected by, national patterns. We must also compare incomes across regions. Do workers or investors in one part of the country earn the same rewards as their otherwise identical counterparts in another part? Even adjustment takes on added complexity, for migration now provides an alternative to a fall in an individual's real earnings.

Provinces have formal constitutional status and possess real economic and social powers which make them important centres of economic activity. They are also communities to which residents have political commitments and emotional ties. Thus it makes sense to consider them as economic regions and to talk about their welfare in the same way that we speak of Canadian interests and aspirations.

To add this federal dimension to our analysis makes that analysis more complex. The aggregate growth rate of a province is not merely a part of a broader economic process. We must consider the ability of a political unit to provide for the continuing economic future of its residents. The locations of jobs or investments are important. It therefore becomes important to ask whether individuals can secure their livelihood in the provincial communities to which they are attached. We must do more than simply compare incomes of otherwise identical individuals across Canada. We must compare the per capita real incomes of entire regions, taking into account the different mix of occupations, demographics and circumstances.

To add federalism to the analysis introduces a host of political and social concerns to the consideration of interregional adjustment. Out-migration, for example, is not simply another adjustment mechanism. If movement is large

enough, it threatens regional communities. Thus population movements that seem justified on grounds of economic efficiency may be unacceptable because of these broader political and social values. We judge policy makers not just by their ability to provide jobs for those seeking employment, but also in terms of the availability of employment opportunities in the parts of the country where the unemployed live.

We have moved out of the economic domain and into the political realm. In doing so, we must ask: How much weight should our nation put on the maintenance of regional communities? How much are Canadians willing to sacrifice, in terms of national efficiency, to guarantee this end? Should the level of resources we commit to regional development be related to the performance of the national economy, falling as national economic growth slows? Does a fair distribution of income imply that per capita incomes be equal across provinces? Has an individual a right to expect a job in his or her chosen region, with wages comparable to those obtainable for the same job in more prosperous regions? Before attempting to answer these questions, we must understand the pattern of regional disparities in Canada.

## **Regional Disparities**

What do we know about regional economic disparities in Canada? For a start, per capita earned or market income (excluding transfer payments) varies significantly among provinces. In 1981, for example, as Table 22-11 shows, Newfoundland's per capita market income was only 53.8 per cent of the national average, while Alberta's was 114.1 per cent. In that year, only three provinces, Alberta, Ontario and British Columbia, were above the national average, although Saskatchewan was close, at 98.7 per cent. Manitoba and Quebec form the next group, at slightly over 90 per cent, followed by Nova Scotia at about 70 per cent, while the other three Atlantic provinces stood below two-thirds of the mean income. This general pattern has changed little over the 60 years for which data are available, although individual rankings of provinces have occasionally altered.<sup>2</sup>

Earned income is generally the initial measure of economic disparity, since it most accurately reflects the relative strength and productivity of the various economies. Other measures represent more fully the relative economic well-being of individuals. If we add transfers to individuals to their earned income, we can form a better picture of total personal income. By this standard, the poorest province is now at 65.1 per cent of the national average, and the richest is at 110 per cent; these figures still represent a difference of slightly more than three to two. If we add the effect of the progressive income tax by assessing after-tax income rather than gross income, discrepancies narrow further. Calculating income per household rather than per person has an additional dramatic effect. On these terms, Newfoundland's disposable income per household rises to 87.6 per cent of the national average, and Prince Edward Island and New Brunswick become the poorest provinces, with per capita incomes 79 per cent of the national average. The shortfalls in per capita income have now become less than half of what they were on the

TABLE 22-11 Alternative Measures of Regional Income Disparities, 1971 and 1981

Index	Year	Nfld.	P.E.I.	N.S.	N.B.	(Canada = 100)				Sask.	Alta.	B.C.	Vuuv <sup>a</sup> (%)
						Que.	Ont.	Man.					
Market income	1971	55.1	53.6	69.3	66.5	88.5	119.6	93.2	79.1	98.3	109.6	0.285	
per capita <sup>b</sup>	1981	53.8	57.5	69.6	63.2	90.7	110.5	92.7	98.7	114.1	110.3	0.274	
Personal income	1971	63.7	63.4	77.5	72.2	88.7	117.0	94.0	80.3	99.0	109.0	0.232	
per capita <sup>c</sup>	1981	65.1	67.4	76.8	70.4	93.6	107.4	93.1	99.7	110.3	108.7	0.211	
Personal disposable	1971	68.1	68.0	79.8	75.0	89.6	114.8	95.5	85.5	99.6	108.6	0.203	
income per capita <sup>d</sup>	1981	67.3	71.6	78.7	72.3	90.8	108.3	97.9	104.4	109.0	109.4	0.195	
Personal disposable	1971	90.1	76.2	84.9	84.4	94.1	111.1	91.6	82.8	97.6	99.4	0.136	
income per household	1981	87.6	79.2	83.0	79.7	91.5	107.0	95.5	103.4	109.4	101.5	0.130	
Real personal													
disposable income	1971	89.9	N.A.	82.7	89.3	96.2	106.3	96.4	88.3	97.2	89.8	0.102 <sup>f</sup>	
per household <sup>e</sup>	1981	81.5	N.A.	82.5	83.7	94.9	103.2	101.1	111.4	109.3	90.9	0.125 <sup>f</sup>	

Source: Based on data from Statistics Canada, *Cansim* (Matrices 555-562; 7002-7031) and *Census of Canada* (1971, 1981) as presented in Robert L. Mansell and Lawrence Copithorne, "Canadian Regional Economic Disparities: A Survey", in *Disparities and Interregional Adjustment*, vol. 64, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).

a. Unweighted Coefficient of Variation.

b. Defined as wages and supplementary income, net unincorporated business income, net farm incomes, and interest, dividend and miscellaneous investment income, all calculated on a per capita basis for the region as a percentage of that for Canada.

c. Personal income is market income plus transfers to individuals.

d. Personal disposable income is personal income less personal income taxes and contributions to social security.

e. Regional price indexes calculated from inter-city partial consumer price index (Winnipeg = 100, May 1971) and city consumer price indexes.

f. The values for this measure exclude P.E.I. and hence cannot be compared to those for the other income measures.



basis of earned per capita income. Adjusting for prices, in order to capture real purchasing power, produces another slight reduction in variations among provinces.

Why do earned incomes per person differ so markedly among regions? Two explanations tend to be offered, the first, perhaps, a little more frequently than the second: differentials in wage rates and differentials in employment rates. In other words, if Canadians actually employed in the poorer regions were to earn, on average, what their counterparts in wealthier areas earn, about one-half of the observed income disparity would disappear. The remainder would reflect the smaller proportion of people actually working. Thus the question becomes: Why do earnings and employment rates vary by region?

The most obvious answer to varying wages is that occupational and industrial structures vary. Fishermen do not make as much as corporate vice-presidents. If there are relatively more fishermen in Nova Scotia and relatively more executives in Ontario, earnings per capita will reflect the different occupational mix. Regional disparities in this circumstance, however, would reflect the usual spread of earnings across occupations or persons that characterizes all industrial societies.

Relatively little of the observed disparity appears to be grounded in occupational differences, however. Earnings for any given job, rather than differences in the types of job available, account for most of the income gap. The explanation for differential earnings lies in worker productivity. A number of factors might explain difference in output per employee. The "quality" and the amount of capital employed appear to account for some part of the gap: poorer regions have lower capital-to-labour ratios. Lower-income regions also have relatively fewer workers in the prime age groups and a work-force characterized by fewer years of education. Slower adoption of new technology, poorer management, fewer and smaller urban centres, and greater distance from important markets explain the remainder of the productivity gap.

To note these associations, however, is not to explain them. In fact, it is extremely difficult to sort out cause and effect. Education of the work-force appears to be lower in poorer regions because individuals with training are generally in a better position to migrate in search of better employment opportunities elsewhere. Lower capital expenditures per worker could simply reflect a poorer investment climate. The decision to adopt new technology as it becomes available depends primarily on the economic circumstances: the speed of adoption tends to reflect the buoyancy of the regional economy. Good managers tend to be promoted to head offices, irrespective of where they start out.

The other half of differentials in per capita earnings reflects lower employment rates in poorer regions. Typically, there are fewer people of working age in the poorer provinces; members of that age group, especially women, are less likely to seek work, and those in the labour force are more likely to experience unemployment. As with earnings, however, these patterns do not explain differences in employment rates. Lower participation reflects, but does not explain, a depressed economy.

On the basis of this analysis, three theoretical approaches to the problems of regional economic development may be distinguished. The first approach stresses interregional adjustment within the national economy. It focuses on the question: What adjustments must occur to equalize the rewards of similarly situated workers in different provinces, given the present underlying forces in the economy? The primary issue is removal of impediments to movement of labour and capital to the areas of their most productive use, that is, interregional adjustment. Theoretically, such adjustment would reward both labour and capital. It would not, however, equalize per capita incomes in each province. If skill levels, management quality, available technology and endowment of natural resources differ, then, even with perfect adjustment, average incomes will differ. Moreover, adjustment occurs largely through mobility of capital and labour: accordingly, this approach offers no guarantee of any particular level of economic activity in any province.

The second approach is compensatory. It emphasizes measures, not to facilitate adjustment, but rather to compensate individuals in a given region for the situation in which the market leaves them. Equalization transfers, considered above, are the Canadian archetype of this solution.

The third approach is developmental. Its policies are intended to stimulate economic development by addressing the underlying factors that cause relative underdevelopment. The market imperfections and the characteristics that each region brings to the national economy become the subject of government policy. Some of these characteristics—distance from markets or natural resources, for example—are relatively fixed, though transportation policies can alleviate the disadvantages of distance. Other aspects of economic structure, however, are more amenable, in principle, to policy efforts, and these are the object of regional development policy more strictly defined.

Canadians have experience with all three approaches: people have moved; incomes have declined; transfer payments have been made, and economic development programs established. In spite of all this, there has been remarkably little change in the level of measured disparities, although the differences do vary somewhat over economic cycles, widening in hard times, converging in good ones.

## **Interregional Market Adjustment**

To ascertain how the pure theory of interregional market adjustment contributes to understanding regional disparities, we must address two questions. What pattern of income distribution should one expect to observe in a regionally diverse nation, such as Canada, in the ideal situation where all interregional trade and factor flows are complete? How does such an economy adjust to shocks to this equilibrium, and what are the implications of the adjustment for regional income distribution?

If there are no barriers to the interregional movement of goods and services, producers anywhere in the country can ship products wherever it is profitable for them to do so. If labour, capital and technology are also free to locate in any region, there is nothing to stop a construction worker in Ontario from taking a job in Quebec, or a dentist in Prince Edward Island from

setting up a practice in Alberta. How would these circumstances affect the distribution of income across provinces?

Under a number of highly restrictive assumptions, free trade in goods and services will equalize factor rewards across regions: wages, returns to capital, and product prices (excluding transportation costs) should be identical, regardless of province of residence. Factor mobility should operate in the same way. Thus, capital and labour will migrate in search of higher earnings to the extent that expected gains in real income to migrant or investor equal or exceed the costs of relocation. As individuals leave areas with lower wages, or capital moves from areas with lower rates of return, supply falls in relation to demand, pushing prices upward. The reverse happens in the region of destination, where prices decline as a result of greater supply.

If migration is responsive to expected differences in real income, theory is able to predict migration from high- to low-unemployment areas, taking into account wage differences. In fact, there are many kinds of labour in a complex modern economy; the variety reflects different types and levels of training, skill and experience, and hence different levels of wages and salaries. Migration can thus equalize earnings within skill groups, but not within the work-force as a whole. The same observation holds true for capital. In the short run, at least, firms typically commit plant and equipment to designated uses and cannot readily reassign them for other purposes. In addition, different investment prospects bear different risks to the investors and are thus likely to be undertaken only at appropriate rates of return. Capital mobility will equalize returns only within a given class of risk.

The theory of interregional market adjustment holds that migration will equalize wages (within skill groups) and “risk-adjusted” returns to capital, but not per capita incomes. This last equalization would occur only if each region had an identical endowment of resources, capital, technology and skilled labour. As long as economic bases differ, so will work-force characteristics and investment patterns. Land and resources are fixed elements in the economic base, and adjustment through trade and migration will not alter them. Regions with relatively large pools of skilled labour, or valuable resources, will have higher per capita incomes than regions with smaller pools of skilled labour or fewer resources. Adjustment, then, consists of the changes that occur within a given set of human and natural resources under internal free trade.

There are two important questions relating to market adjustment. How do trade and factor markets respond to those changes in relative prices and earnings potentials that result from economic shocks? How quickly does adjustment correct any disequilibrium? What happens, for example, when the value of one region’s output falls over the long term perhaps as the result of a shift in the terms of trade against its exports, or the exhaustion of an important resource? Clearly, the region can no longer produce the same per capita income for the same number of residents as it did before. Two types of market response, or some combination of them, are logically possible. First, and most obviously, some residents could leave the region. As long as this population outflow is not destabilizing—that is, as long as it does not reduce the ability of the regional economy to produce goods and services



efficiently – fewer people will share a proportionately lower aggregate output, thereby restoring the previous level of per capita income. Alternatively, the region might support the same population, but at lower per capita incomes. Falling aggregate demand for the region's output will put downward pressure on output and factor prices. If these are flexible, full employment will result, but incomes will be lower. If prices are not sufficiently responsive, unemployment will result. It will also reduce aggregate income and restore equilibrium in the short run. Over time, the unemployed, if they are unassisted, will either have to migrate in search of employment, or will put downward pressure on local factor prices. Either way, the total income of the region will eventually adjust to the reduced value of its output that is the result of changed circumstances.

What does the same theory hold for the pattern of regional incomes and the efficiency of interregional adjustment? Differences in factor prices cannot exist for long if there is interregional mobility of products and factors, for market adjustments will eventually remove them. If markets are relatively efficient in recognizing and acting upon differences, factor prices will become similar across regions. If natural "frictions" or policy-induced distortions impede adjustment, however, the correspondence will not be as close. A number of public policies in Canada have been designed to facilitate this form of market adjustment.

Indeed, we Canadians have relied primarily on the individual decisions of private economic actors to facilitate adjustment through mobility of factors in response to changing economic incentives. Adjustment of this type has been quite effective in the past. For example, as the terms of trade shifted in favour of Western resource producers in the 1970s, not only labour but also capital and financial institutions responded. The subsequent shift away from resources has brought a corresponding flow of these factors to Ontario. The process of adjustment through the migration of labour and capital has been facilitated by a wide range of policies, including Employment Canada's efforts to match workers and opportunities, and grants or tax deductions against moving expenses to assist relocation. More generally, federal support for post-secondary education, health care and other public services help to overcome the barriers to mobility inherent in variations of provincial policy in these areas. Language policies also help to reduce some of the cultural barriers to personal mobility. We have already seen that equalization payments contribute to efficient reallocations of labour and capital.

## **Compensatory Policies**

The second policy option is compensatory. Equalization payments provide the obvious example. Provinces qualify for these payments by virtue of an unacceptably low taxation base. Payments flow, by design, to some provinces and not to others. They are intended to offset natural economic disadvantages, not to change the underlying forces of the economy. Another example is the regional differentiation of Unemployment Insurance (UI) terms and benefits. The variability within the UI system acknowledges that unemployment is more likely to occur in some parts of Canada than in others and to



last longer when it does occur. More generous terms and benefits make up for these differences. It is, in general, these policies that produce the reduction of disparities in personal income treated earlier. The transfers applied can render market adjustments less necessary: they allow recipient regions to maintain consumption levels; they prevent real per capita incomes from falling; and they obviate the necessity for individuals to migrate who might otherwise have to do so. Hence the population base can remain intact, reducing downward pressure on wages. While these results may seem entirely positive in terms of individuals or families, from the market point of view, compensatory policies can hinder adjustment. Where there is a high level of transfers, wages and unemployment remain too high.

## Developmental Policies

The third policy option, while still explicitly regional in focus, is developmental in intent. It has been defined as follows:

*Economic development ... refers to the structural transformation of an economy such that, over time, it becomes increasingly capable of sustaining its capacity for further expansion out of its own, internal resources. Since the prerequisites for such sustained expansion include an increasingly differentiated and integrated economic structure, combined with incentives for its key actors to accumulate capital, to innovate, and to be efficient, the goal of development policy is to ensure that such prerequisites are created.*<sup>3</sup>

Developmental policies are not designed to adapt to, or to compensate for, economic circumstances; rather they address the means of changing those circumstances or of supporting specific regions in their attempts to alter their own capacities in order to overcome their disadvantages.

These developmental approaches often emphasize a broader range of historical, political and even cultural factors than do market-based theories. Some, in particular, see a pattern of cumulative forces, in which the dynamics of the market lead to even greater concentration of productive forces at the centre. Availability of large markets, of economies of scale, of sophisticated specialized services, of a highly skilled labour pool, and like circumstances all attract capital and labour from peripheral regions. Consequently, these regions lose many of their most dynamic citizens and are able to offer fewer advantages to new investors. Cumulative growth at the centre, in this view, can thus lead to cumulative decline elsewhere. Regional policies seek to counter these forces.

Canada has employed some form of regional development policy throughout its history. Much of development policy aimed at sectors has had a strong regional basis where sectors have been concentrated in one or a few regions. In the oil and gas, auto, fisheries and timber sectors, for examples, a substantial portion of activity has been concentrated in a few regions. At the turn of this century, the federal government imposed export duties on uprocessed logs to increase the extent of processing in central Canada and British Columbia. During the Great Depression, relief measures were targeted regionally; the Prairie Farm Rehabilitation Act is a well-known

example. Moreover, national development policies, such as those to enable or promote the movement of goods and services across the country have proved beneficial to the regions. The building and extending of our great national railways and highways fall in this category. Indeed, these implicitly regional policies have undoubtedly been more vital to regional development, broadly defined, than have the explicitly regional development programs of the Department of Regional Economic Expansion (DREE) and other comparable agencies.

Explicit regional efforts, however, had little part in federal economic policy immediately after the Second World War. Instead, emphasis was placed on promoting aggregate economic growth and stability, and on creating the outlines of the modern welfare state. The federal government expected that poorer regions, to the extent that they entered the calculations at all, would benefit from the general economic prosperity: "Regional development was seen as natural adjunct of national development."<sup>4</sup> By contrast, from the close of the Second World War, Britain used regional policy as a pillar of its post-war full-employment policy.

In Canada, the first explicit policies to be aimed at decreasing regional economic disparities were developed in the wake of the 1957 report of the Royal Commission on Canada's Economic Prospects (the Gordon Commission). Sustained national economic growth, the Commission and supporting research studies found, had not eliminated regional disparities. Political action soon followed in the form of Prime Minister Diefenbaker's announcement of the "Roads to Resources" program. In addition, the federal government introduced winter-works bonuses to support construction activity undertaken in times and areas of relatively high unemployment.

The Agricultural Rehabilitation and Development Act (ARDA) of 1961 introduced a long succession of boards, agencies, committees and departments. The target was rural poverty. The goal was to find ways to keep marginal farmers on the land through better techniques of land use. A more explicitly regional (as compared with sectoral) focus for development efforts came in 1962 with the creation of the Atlantic Development Board (ADB), although at the time, the new board was assigned only a research and advisory role.

Regional development took on added importance with the change in government that took place in 1963. In that year, the new government of Lester Pearson gave the ADB a program orientation and funds to disburse, most of which subsequently went toward social infrastructure projects. In 1964, ARDA became the Agricultural and Rural Development Act, and a new department, Forestry and Rural Development, assumed responsibility for its application. ARDA's focus changed from purely agricultural assistance to more general rural economic development. The new department designated Special Rural Development Areas for attention. The Fund for Rural Economic Development (FRED), established in 1966, had an even broader mandate: it was to implement comprehensive rural development strategies in locations judged to be "promising". Areas which did not meet the criteria were to receive adjustment aid; out-migration was deemed inevitable, and the only task was to make this process as painless as possible.

Not only rural areas received government attention. The federal government introduced the Area Development Agency (ADA) in 1963, to promote industrial development in poorer regions. Firms locating in designated areas could qualify for tax exemptions, for accelerated depreciation allowances and, with the introduction of the Area Development Incentives Act in 1965, for cash grants.

These early regional development efforts were scattered throughout the federal bureaucracy, each with different and sometimes tenuous links to the provincial governments concerned. In 1969, with the establishment of the Department of Regional Economic Expansion, consolidation of regional programs took place. Regional economic development was now to have a departmental focus; the new portfolio:

*... was not to be just another line department but rather was to initiate and facilitate cooperative efforts between the line departments, when so authorized to coordinate the implementation of programs and, when necessary, to proceed on its own.*<sup>5</sup>

The appointment of a senior minister to the portfolio emphasized the importance to be attached to the task.

DREE continued to use many of the same policy instruments as its predecessors and also introduced new approaches partly because industrial assistance was added to its responsibilities. It designated certain urban centres in poorer provinces as “Special Areas”, thereby making them eligible to receive funds that would support the provision of social infrastructure. These towns and cities were to be the “nodes” or “growth poles” around which economic development would centre and spin off throughout the region. Under the Regional Development Incentives Act (RDIA) the practice continued of designating certain areas as eligible to receive loan guarantees and subsidies for firms choosing to locate in them.

The initial enthusiasm that greeted DREE soon disappeared. Observers criticized the department on two grounds. First, its very policies became suspect. It soon gained the reputation of dispensing large sums of money with negligible results. The industrial incentives grants, in particular, attracted severe criticism. Some critics charged that these grants did not noticeably affect firms’ locational decisions; that even when they did, such decisions involved only reallocation of economic activity from one underdeveloped region to another; and that the incentives DREE offered created significant and costly distortions. Even the infrastructure grants under the Special Areas program became targets, as “growth pole” theory fell into disfavour among planners.

The second major concern with DREE lay in its administrative approach. The department appeared to be too centralized and too inflexible, especially with respect to the economic development objectives of provincial governments. There was also considerable tension within the federal bureaucracy between DREE, with its explicit regional development mandate, and line departments, with their more sectoral approach. Often the latter – Transportation, Energy and Fisheries, for example – could affect a region’s economy much more significantly than could any policy that DREE was able to mount with its limited funding.



As a result of these pressures, the federal government reorganized DREE in 1973, and instituted the system of General Development Agreements (GDAs). It negotiated with each province a separate agreement wherein the general developmental goals to be pursued were outlined. Committees of officials drawn from both orders of government devised specific projects that were to be run on a shared-cost basis by the province. DREE staff, including a senior Assistant Deputy Minister, were relocated to each of the regions, in order to provide more local expertise. In Newfoundland, the federal government paid for up to 90 per cent of project costs; it paid for 80 per cent of such costs in Nova Scotia and New Brunswick, 60 per cent in Quebec, Manitoba, and Saskatchewan, and 50 per cent in the three wealthiest provinces. Prince Edward Island continued to be covered by an existing federal-provincial development agreement. This DREE procedure was a radical departure from earlier forms of federal-provincial consultation on economic development.

The federal government's approach to regional economic development also changed. The emphasis on growth centres was abandoned. Projects were organized on a smaller scale, but were to encompass a wider range of sectors and to be distributed throughout any given province. The province, more than a particular region, became the relevant planning unit, and "the focus on provinces meant that regional development policy was really provincial development policy".<sup>6</sup> It was during this period, too, that regionally differentiated investment- and employment-tax credits and Unemployment Insurance benefits were introduced.

Members of both the federal and the provincial governments soon began to criticize the GDA approach. Some provincial governments wanted even more control over program implementation, although most viewed the GDA period favourably, especially as compared to the arrangements that had preceded it and that were to follow. During the course of this Commission's hearings, we Commissioners heard a number of expressions of provincial support for the GDA approach. The real difficulties with GDAs were on the federal side. Ministers of line departments wanted more influence over DREE programs. They saw DREE as tied too closely to provincial priorities. As a result of these bureaucratic tensions, the intended provincial and federal co-ordination and integration of regionally sensitive policies encountered difficulties. Another ground for criticism was found: federal politicians considered that they were not receiving enough political credit for programs that were federally funded, sometimes to the level of 90 per cent. Provinces, however, were in a better position than the national government to represent themselves as the source of the largesse, and often took advantage of this opportunity.

A sometimes-bewildering succession of administrative reorganizations followed. In 1982, responsibility for regional economic development shifted from a particular department to economic ministries as a whole: "The regional perspective [was to] be brought to bear on the work of all economic development departments and in all economic decision making by the Cabinet."<sup>7</sup>

As part of the necessary reorganization, DREE's regional programs were combined with the industry and small-business interests of the Department of Industry, Trade and Commerce (ITC) to form a new Department of Regional



Industrial Expansion (DRIE). Both DREE and ITC were disbanded as separate departments. The Cabinet Committee on Economic Development became the Cabinet Committee on Economic and Regional Development, and the Ministry of State for Economic Development became the Ministry of State for Economic and Regional Development (MSERD). A number of other changes were made, including the appointment of senior Federal Economic Development Co-ordinators (FEDCs) for each province. The merging of regional development considerations with those of more general economic development policies was now complete, at least for administrative purposes. In the process, concern shifted from "regional development" in the sense, primarily, of development of slow growth areas, to "regional development" as the need to focus on economic development in each province.

The basic instrument of economic planning under this system was the Economic and Regional Development Agreement (ERDA), which the federal government was to sign with each province. As with the GDAs of an earlier period, these agreements were to be the overall planning documents within which specific policies and projects would be developed. Within this accepted framework, however, the emphasis would be focused on each government's direct delivery of its own programs, to allow the federal government its proper political due. Federal economic effort in a province and its links with provincial economic interests would be more fully co-ordinated through the FEDCs. Little in the ERDAs was original, and its projects turned out to be very similar to those of the GDAs.

Still further changes were in store. In June 1984, MSERD was disbanded. Responsibility for regional economic development was assigned to a single Minister of State for Regional Development operating under DRIE. In September 1985, even this position was abolished. Regional development policy is now the direct responsibility of the Minister of Regional Industrial Expansion.

## Evaluation

How successful have been our regional development policies? To answer this question definitively would require an ability to compare the present state of economic development in those regions receiving assistance to its imagined state in the absence of such policies; unfortunately, such a task is impossible. Some research, however, has shed light on the effect of certain regional development policies.

Researchers have devoted most of their attention to RDIA grants, chiefly because they are the most visible and most contentious, even though industrial subsidies have represented only a small portion of total government spending on regional development. Initially, researchers tried to determine whether grants actually influenced the locational decisions of firms. A 1971 survey by the Atlantic Provinces Economic Council<sup>8</sup> (APEC) found that only 20 per cent of firms polled said that even without the grants, they would have located in the designated area. The other 80 per cent were presumably influenced by the grant to some degree, although the survey gives no indication as to whether the actual grants proved merely adequate or were

unnecessarily generous. A DREE study completed in 1973 produced results similar to the APEC's.

In 1977, the Economic Council of Canada published a comprehensive study of regional economic development in which it attempted to evaluate the effectiveness of DREE grants. It compared unemployment, income and migration rates in the recipient regions before and after the inception of the grant program. It concluded that "job opportunities in the Atlantic region have improved over the last few years, although nothing much seems to have changed elsewhere."<sup>9</sup> Nevertheless, it is impossible to establish that DREE policies necessarily had anything to do with this outcome.

To meet this uncertainty, the Economic Council undertook its own study of the success of grants in influencing firms' location in the Atlantic provinces. It found that 25 per cent of DREE-supported establishments were definitely influenced by the grant program, and that another 34 per cent were possibly so influenced. Little evidence was found that the subsidies "crowded out" other economic activity in the region, and so the net gain remained at 25 per cent to 59 per cent. As a final step, the Council compared the increment to national output from DREE-created jobs with the cost of providing those jobs. Even with conservative estimates of the grant's effectiveness in determining plant location, the program appeared to be successful. The additional contribution to national output from workers who would otherwise have been unemployed, more than covered the cost of the funds used.

The Economic Council's overall evaluation of the industrial subsidy program was cautiously optimistic:

*Our own assessment of previous evidence, together with our analysis of data on the births and deaths of establishments in one region only (the Atlantic), has led us to the view that the subsidy program is far less successful than published estimates of job creation would imply. To that extent, the critics are right. But the subsidies, nevertheless, seem successful enough to be a paying proposition. The value of the jobs created appears to outweigh the inefficiency involved in locating production inappropriately.<sup>10</sup>*

The Council was unable to come to any definite conclusion on the other components of regional development policy, such as the infrastructure grants.

Other writers have been more critical of the DREE programs. One, for instance, concluded that:

*In the current situation, the publicly-recognized RDIA goal is employment in certain depressed regions . . . DREE fails to achieve the greatest number of new jobs, and incurs a higher cost per new job created, by continuing with the subsidies which are inconsistent with their goals.<sup>11</sup>*

The specific complaint, based on rigorous statistical analyses of the program and its effects, was its bias towards capital-intensive production techniques. Another analyst was even more sweeping in the criticisms put forward:

*In view of all the uncertainties inherent in the subsidization of firms—the absence of solid evidence that investment in the designated regions is really increased, the even greater doubt about employment, the effects on distribution*

*of income among persons, the possibility of inequity in the government's dealings with firms, the probable reduction in national income in Canada as a whole, and the lack of any real assurance that modernization and progress are fostered in the designated regions—I wonder if it might not be best for the federal government to restrict its subsidy program to the support of poor people . . . and to such transfers to provinces as are agreed upon in federal-provincial negotiations, and to keep its distance from firms' decisions about the location of investment.*<sup>12</sup>

A research paper prepared for this Commission, summarized the available evidence on regional development initiatives:

*Despite widely varying policy thrusts and economic circumstances, there has been little improvement in the relative position of most of the poorer provinces as measured by income net of transfers . . . It seems reasonable to conclude that there has been no discernible progress with regard to regional development. This finding alone would appear to be a serious indictment of the many policy efforts, and very large public sector outlays that, it was argued, could achieve that goal.*<sup>13</sup>

Nevertheless, as Commissioners have noted, it may be that the policies have prevented regional imbalances from getting worse. Nor has it been shown conclusively that if Canada had devoted greater resources to regional development, more progress would have been made.

Criticisms of regional development efforts have gone well beyond arguing that they are simply ineffective. A much discussed and controversial view partially attributes continuing regional economic disparities to the design of these transfers.<sup>14</sup> Economic circumstances create excess aggregate supply in a region. Wages and prices fail to adjust properly, with the result that unemployment triggers transfer payments of various kinds into the region, including individual compensation to the unemployed and additional equalization entitlements to the host provincial government. The receipt of these transfers blocks further adjustment in the form of out-migration or falling real wages. Without such adjustment the region is forever unable to regain its former economic standing, for its wage rates remain out of line relative to its labour productivity.

Transfers have been associated with some of the least suitable of the provincial economic policies.<sup>15</sup> The argument rests, essentially, on what is known as moral hazard. If provincial governments are not forced to bear the full costs of their actions, they will implement policies, highly attractive on some grounds, perhaps, which they would otherwise avoid. Unrealistic minimum-wage laws, language policies and restrictions on non-resident land ownership are three examples cited. These popular programs can be implemented because the distortions they cause are paid for, at least in part, by others. For example, Unemployment Insurance covers those persons who are displaced by minimum-wage legislation, while equalization payments offset some of the adverse economic consequences resulting from the other two examples cited.

This system results in a state that observers refer to as “transfer dependency”. It creates a vicious circle in which economic misfortune begets



transfers which, in turn, foster poor economic policies which beget further economic misfortune. All private, as well as government, economic agents in the recipient regions are acting rationally within the existing system of incentives, yet the outcome is continued economic stagnation. This situation causes increasing expense to the economic union as a whole.

Whatever the merits of this argument in principle, it is still subject to empirical assessment. Some evidence exists to support certain aspects of the thesis, but to date, no complete assessment has been made. Work on unemployment-insurance and labour-market adjustments<sup>16</sup> tends to support the notion that transfers do affect interprovincial migration. More than one analysis has concluded that the 1971 changes to the unemployment insurance scheme, which made it significantly more generous, acted to retard out-migration from the Atlantic provinces.<sup>17</sup> These studies suggested that this migration, given the relative income and unemployment levels of the source and probable destination areas, would be socially beneficial. Attention has also been drawn to research suggesting that:

*The UI program reinforces the concentration of unstable and short term jobs in the regions with high unemployment and a high concentration of seasonal industries.<sup>18</sup>*

Commissioners note that such criticisms are directed at impediments to effective adjustment processes. They do not address the effectiveness of policies to improve the economic base of disadvantaged regions.

These debates centre on the uncertainties involved in developing regional development policies. The uncertainties operate at a number of levels. One policy choice must take into consideration aggregate national income growth and the growth of each particular province or region. The central concern here is whether measures to promote the latter reduce the former by diverting resources to areas of lower reward; or, conversely, whether in the long run, regional development programs contribute to the growth of the national economy. Commissioners' recommendations seek to minimize this dilemma by emphasizing that regional development policy should focus as much as possible on improving the productive capacity of poorer regions.

A choice must also be made between "compensatory" policies designed to minimize the gap between earned and total incomes, and those policies which are developmental, or which promote adjustment. "Compensation" is designed to soften the effect of market forces on individuals. In Part V of this Report, however, Commissioners have recommended redesigning Canada's social policies to enhance Canadians' concept of social justice while reducing the barriers to adjustment. These recommendations, if put into practice, will have important regional effects. We have shown, too in this chapter, that equalization, a compensation program, also has important positive implications for efficiency.

In addition, tension exists between interregional market-adjustment policies, which are aimed primarily at facilitating the mobility of labour and capital to areas of their greatest productivity, and developmental policies, which are aimed at improving the productive capacity of individual regions. We Canadians, Commissioners believe, have decided that policies must be



blended in order to make it possible for those who wish to move to do so; but the economic and social viability of all our regions must be promoted as well.

These policy decisions have been reflected in administrative tensions. As our analysis suggests, Canadians have never settled on a stable blending of policies in this area. We have moved from a sectoral orientation, under ARDA, to a more generally directed economic development approach, including adjustment out of the region, FRED, to a strategy of creating growth poles, under ADA and DREE. Specific policies have ranged from adjustment assistance to infrastructure grants, to tax breaks, to direct subsidies, to regionally differentiated investment and employment credits.

Nor have we Canadians settled on the proper relation between federal and provincial responsibilities for encouraging and supporting regional economic development. Early federal efforts were highly centralized and tended to ignore provincial wishes. During the GDA period, however, the reverse was true: the federal government financially supported province building. The pendulum then swung briefly in the opposite direction.

The federal government has been unable to form a satisfactory link between its regional development responsibilities and its broader role in managing our national economy. The most obvious manifestation of this failure is apparent in the constant rearrangement of the federal bureaucracy, first, to bring regional interests into a separate department, then to encourage all departments to consider regional implications, and finally, to drift back to the single-ministry concept. We are thus faced with three questions: What is the appropriate division of labour between the federal and provincial governments? How should the Government of Canada balance its regional economic with its national responsibilities? What policies and programs should be pursued?

## Conclusions

We Commissioners would not go so far as to label Canada's continuing regional economic disparity a crisis. We do, however, view it as a serious problem. The nature of individual Canadians' future economic prospects should not depend so significantly on their province or place of birth. Regional development must therefore remain one of Canada's primary policy goals. Commissioners are equally convinced, however, of Canadians' need to reconsider our view of regional economic disparity, our notions of what we should do to overcome it, and our ideas about the institutional mechanisms we should bring to the task. Some of the propositions Commissioners advance are principles we are urging Canadians to accept, some are statements of economic constraints that Canadians have no choice but to accept, and some are conclusions drawn from our research and hearings. Together they form a package that we hope will serve to guide regional policy formation in the years to come. The proposals are designed to be consistent with this Report's broad themes concerning principles both of economic adjustment and of federalism.

Our first proposal concerns the concept of regional disparity. In our opinion it is time to stop viewing inequalities simply in terms of per capita income

differences. Transfers, both to individuals and governments, have rendered this focus unnecessary. Individual Canadians now have a variety of support mechanisms to fall back on in the event of personal hardship, and our proposals in Part V, especially those concerning the new Universal Income Support Program (UISP) and the Transitional Adjustment Assistance Program (TAAP), if adopted, will further improve this situation. Our equalization scheme, imperfect as it is in some respects, would allow each provincial government the means to provide its residents with a comparable level of public goods and services, without imposing the burden of unduly high taxation rates. There is, in fact, less variation in per capita incomes across regions now than there is among individuals within provinces. To the extent that Canadians are truly concerned with income inequality, our first priority should be the vertical dimension of the problem, that is, its application to individuals.

The core factors of regional inequality are wage differences for given types of employment, and variations in employment rates. A job is important, first and most obviously, because it provides a source of income. But it offers more than that. In a society such as ours, a steady job also provides a sense of self-worth and dignity that the most generous transfer scheme could never duplicate. In a federal state, there is even more at stake. The availability of jobs in a region also provides the population base necessary for the survival of that community.

Commissioners conclude that Canada's past policies have compensated quite adequately for regional economic disparities, but that they have been markedly unsuccessful in promoting self-sustaining economic development. The complex mix of transfer programs has substantially evened out per capita incomes across regions, but it has not provided the foundation for robust future economic development.

Commissioners also find some merit in the thesis that Canadians' difficulty in establishing acceptable employment rates in some parts of the country lies partly in the distortions created by a variety of well-intentioned, but misguided, economic policies. Canadians' concern with compensating regions for their economic shortcomings has been partially responsible for those regions' maintaining this status. We have neglected to structure policies and programs to provide the proper incentives to firms, workers and governments. A cycle of transfer dependency has been created whereby economic disparity begets compensation which, in turn, induces behaviour that sustains economic disparity. To make this point perfectly clear, Commissioners are not suggesting that transfer dependency explains all regional economic disparity. There were, after all, significant disparities of this sort in the decades before the 1950s, when few such transfer programs existed. We are simply suggesting that inappropriate incentives are part of the explanation of some of the present problems in this field.

Commissioners believe that regional economic well-being is the responsibility of all levels of government, including municipal government. The role of provinces and municipalities is clear. The justification for including the federal government lies in Canadians' concept of what it means to be a citizen

of this country and the practical need to integrate regional development with national development.

We come now to an important economic constraint which relates directly to the institutional design issue. There is typically, but not always, a fundamental conflict between the goals of regional economic development and those of national efficiency. The location of economic activity is normally not neutral. For a variety of complex reasons, some regions of Canada are simply better situated than others to support internationally competitive enterprises. Furthermore, as this analysis of our economic union has shown, the fewer the barriers to interprovincial trade flows, the more efficient is our national economy and the greater the ease with which capital and labour can be reallocated interregionally. Yet distortions in these markets are often the product of otherwise defensible efforts by both federal and provincial governments to encourage economic development in Canada's poorer regions.

A political constraint accompanies this economic one. The clashing of goals often means that regional economic development produces political tension which operates at two separate levels. The federal public service itself is torn between departments with a national and a sectoral focus, and those with a more explicit regional mandate. Added to this tension is the unavoidable federal-provincial conflict. Whenever the national government undertakes economic policies that are designed for a specific place, as regional development measures are by definition, it impinges on provincial government plans.

In the recommendations set forth in this Report, Commissioners focus both on the federal government's regional development policy, and on that government's implementation of its policy. As we noted above, the federal government has a legitimate role to play in regional development, but its involvement in this policy sphere has typically conflicted with its overall national responsibilities. Thus a further requirement emerges: whatever the federal government does in this field should not be inconsistent with provincial plans. This position is consistent with the basic principles of federalism, but it does not imply that the federal government must blindly support whatever development strategies the provinces put forward.

Does this complex of constraints leave any scope for federal initiative? We Commissioners believe that it does. We return to the two areas of disparity that we find important, wages and employment rates to define the proper federal role. Wage gaps are created because labour productivity for given types of employment is not equal across regions. If output per worker in poorer regions could be brought up to the level that exists in wealthier ones, one important source of regional differences would be removed. The same statement holds true for employment-rate differences: if any Canadian, irrespective of region, had an equal chance of obtaining permanent employment, the other main source of regional disparity would disappear.

The form that the Government of Canada's involvement in regional economic development should take follows logically from these observations. Our national government's responsibility should be to work to remove differences in labour productivity across regions and any factors that impair



the efficient operation of regional labour markets. If poorer regions adopt technology more slowly, the federal government might help to accelerate this process. If labour skills are deficient, it could help to provide retraining. If there are structural problems in matching labour skills with employment demands, it could establish information centres.

This proposal is an extension of the argument advanced in Part III of this Report. There the object in seeking government action was to correct for market failures of whatever origin. Intervention was seen as economically efficient or socially beneficial if Canadian firms were experiencing problems in adopting the latest technology or in reallocating capital and labour from "sunset" to "sunrise" industries or in improving the competitive position of groups in the labour force that historically have been unable to compete on equal terms. The private market-place fails in these instances when it does not generate the socially most desirable outcome.

Commissioners have simply added to this analysis another dimension that is inherent in regional disparities. Specifically, we would assert that the market has failed if it has not provided comparable firms in all regions of the country with equal access to capital, technology, and labour and management skills. In Part III, we asked whether private actors would bring the latest technology to Canadian industry at rates that would allow Canada to compete in the international market-place. If the answer was no, then an industrial strategy of some sort seemed justified. Here we ask whether these same agents will also diffuse this same technology adequately to all regions of the country. If not, then regional policies seem warranted.

These policies would not attempt to bring the same industrial or occupational structure to each regional economy. The object would simply be to ensure that industries that do locate naturally in poorer regions can produce as efficiently as their counterparts elsewhere. A brewery or government office in Atlantic Canada, for example, should be no less productive than its counterpart in Ontario. Almost certainly, however, there would continue to be a greater concentration of high-technology industries in the latter province.

A similar analogy applies to employment differentials. Commissioners are concerned about unemployment at the national level and seek policies to reduce it because we do not believe that the labour market is sufficiently responsive to effect this on its own. In Canada, however, as we noted above, unemployment has a marked regional dimension as well. The national unemployment figure is an average of consistently higher jobless rates in some provinces and consistently lower rates in others. Moreover, these differences tend to widen as aggregate unemployment rises and to narrow as it falls.

The inference to be drawn from the first observation is that all regional labour markets are not equally efficient at matching jobs and workers to meet given levels of aggregate demand. That the gap widens as national economic activity slows is evidence that changes in aggregate demand do not spread evenly to all regions. In both instances, markets fail in the sense that they do not operate equally effectively across the country. As with differences in productivity, then, this failure establishes the rationale for the federal government's regional policy.



It is considerably easier to establish that something should be done about differences in employment rates than it is to recommend exactly what to do. In part, the differences will disappear naturally, with elimination of productivity gaps and equalization of wage levels for given types of employment. As long-term equilibrium is established, there will be less out-migration of younger and more highly educated workers. Participation rates will also rise as the economic outlook improves. These two effects together will raise to the national average, the ratio of those seeking work to total provincial population eliminating part of the difference in employment rates.

The difficulty for policy purposes is compounded by the third component of differences in employment rates: unemployment rates that are much higher in poorer regions. It is important to be realistic on this point. There is absolutely no guarantee that as productivity levels, and hence wage rates, rise toward the national level, there will be enough jobs generated in the poorer regions to employ fully the existing labour force. Let us examine what underlies these possibilities. Suppose that federal and provincial governments raise labour productivity in poorer regions. Their action will have two distinct effects. First, a region will need less labour to produce any given level of output. Secondly, costs may fall for those products that the region produces in competition with suppliers elsewhere, suggesting that total output could increase. The net effect is uncertain. If the labour-saving bias in productivity improvement is strong and the scope for capturing new markets weak, net job destruction will result. The converse will occur under reverse conditions. To date, there is simply no firm evidence about the balance of these alternative outcomes in the different regions of Canada.<sup>19</sup>

It is at this point that Commissioners introduce a sharp distinction between federal and provincial functions in regional economic development. The federal government, we wish to suggest, should not involve itself directly in regional job creation. Its responsibilities end with its commitment to overcome regional productivity gaps and labour-market imperfections. It has served regional equality if identical employments fetch roughly similar compensations, and if adjustment to change in labour markets proceeds equally efficiently in all regions. In addition, the federal government should bring to discussions of regional development a direct concern with building complementary and mutually beneficial links among provincial economies. In other words, it should set regional policy in a national framework.

Provincial governments and their electorates typically want more than this from economic policies. Specifically, they have absolute employment targets as well. They wish generally that all current and future residents will be able to find suitable employment locally. This emphasis on place prosperity is both understandable and defensible when it comes from a provincial government. It should not, however, unduly concern the federal government. Commissioners believe that community preservation, to the extent that people want it, is ultimately the responsibility of citizens and of their local and provincial governments. The federal government must not stand in the way of achieving that goal, in the sense that its economic and social policies must not consistently discriminate against particular groups, but neither need it devote resources directly to meet that goal. Provinces, however, must have access to

such funds and be free to use them in this manner if they so desire. The following conclusions form the basis of our recommendations:

- In the interests of the efficiency of the national economy and of promoting interregional adjustment, the federal government should modify certain regionally distorting programs, in directions consistent with the analysis presented in Part III of this Report.
- The federal government should direct regional development programs toward improving regional productivity and the efficiency of the labour market.
- Provinces should take full responsibility for place-specific employment measures as part of their own regional development policies. In order to increase their capacity to address local needs, provinces receiving equalization payments should also receive Regional Economic Development Grants from the federal government.
- Co-ordination of these federal and provincial activities should take place through continuation of the mechanism of Economic and Regional Development Agreements.
- A sustained federal commitment to regional development requires that a single central agency be responsible for injecting regional concerns into the programs of individual federal departments and for co-ordinating federal efforts.
- Commissioners believe that the total federal financial commitment to regional development, which would combine the Regional Economic Development Grants with funds spent through ERDAs, should increase significantly over the next few years.

## Notes

1. Constitution Act, 1982, s. 36.
2. This review is based on a research study for the Commission: Robert L. Mansell and Lawrence Copithorne, "Canadian Regional Economic Disparities: A Survey", in *Disparities and Interregional Adjustment*, vol. 64, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).
3. N. Harvey Lithwick, "Federal Government Regional Economic Development Policies: An Evaluative Survey", in *Disparities and Interregional Adjustment*, vol. 64, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).
4. *Ibid.*
5. Peter Aucoin and Herman Bakvis, "Regional Responsiveness and Government Organization: The Case of Regional Economic Development Policy in Canada", in *Regional Responsiveness and the National Administrative State*, vol. 37, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).
6. Lithwick, "Federal Government Regional Economic Development Policies".
7. Office of the Prime Minister, Press Release, January 12, 1982.
8. Atlantic Provinces Economic Council, *The Atlantic Economy: Fifth Annual Review* (Halifax: The Council, 1971).

9. Economic Council of Canada, *Living Together: A Study of Regional Disparities* (Ottawa: Minister of Supply and Services Canada, 1977), p. 158.
10. *Ibid.*, p. 125.
11. Robert S. Woodward, "The Effectiveness of DREE's New Location Subsidies", *Canadian Public Policy* (Spring 1975), pp. 228–29.
12. Dan Usher, "Some Questions about the Regional Development Incentives Act", *Canadian Public Policy* (Autumn 1975), p. 575.
13. Lithwick, "Federal Government Regional Economic Development Policies".
14. Thomas J. Courchene, "Avenues of Adjustment: The Transfer System and Regional Disparities", in *Canadian Confederation at the Crossroads: The Search for a Federal-Provincial Balance*, edited by Michael Walker (Vancouver: Fraser Institute, 1978).
15. *Ibid.*
16. Jean-Michel Cousineau, "Unemployment Insurance and Labour Market Adjustments", in *Income Distribution and Economic Security in Canada*, vol. 1, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).
17. Jean-Michel Cousineau, "La mobilité interprovinciale au Canada: le cas de l'Ontario, du Nouveau-Brunswick et de la Nouvelle-Écosse", *L'Actualité Économique* 55 (1979): 501–15; and Stanley L. Winer and Denis Gauthier, *Internal Migration and Fiscal Structure* (Ottawa: Economic Council of Canada, 1982).
18. Cousineau, "Unemployment Insurance and Labour Market Adjustments".
19. See the Economic Council of Canada's Newfoundland reference for an extensive discussion of these effects: *Newfoundland: From Dependency to Self-Reliance* (Ottawa: Economic Council of Canada, 1980).

## Federal-Provincial Fiscal Arrangements

Fiscal arrangements are at least as important an institution of the federation as the machinery of intergovernmental relations. Like other countries with federal systems of government, Canada has departed a long way from the fiscal equivalent of watertight compartments, where each government carries out its taxing and spending decisions independently. In Canada, both orders of government exploit the major sources of taxation; tax changes by one order will therefore have immediate consequences for the other. Moreover, revenues flow between governments in massive amounts; attempts by the federal government to constrain expenditures are difficult when a quarter of its spending is in the form of transfers to the provinces; the same is true of provinces with respect to municipalities.

Taxation has a long and complex history in Canada, and fiscal arrangements have been a constant preoccupation of federal-provincial relations since 1867. The British North America Act gave the federal government unlimited taxing authority, while it restricted the provinces to direct levies. Since this meant that the lucrative customs duties and excise taxes of the day were removed from the provinces, the federal government agreed to make specified annual payments in “full and final settlement” of all claims on it. Under these arrangements, the provinces collected only 27 per cent of their total revenues in the first years of Confederation. Their taxation effort, including initial forays into direct taxation of income, increased gradually in the late nineteenth century and again after the First World War as their expenditure responsibilities grew. The federal government also began to levy income taxes during the First World War. Nevertheless, by the time of the onset of the Great Depression, provincial and local authorities were collecting over 70 per cent of Canadian public revenues.

The scramble for revenues in the 1930s led to a “tax jungle” of double-taxation and conflicting regulations. The overall structure of federal-provincial finance was extensively examined in the historic work of the Royal Commission on Dominion-Provincial Relations, the Rowell-Sirois Commission. The Commission recommended that the federal government collect all personal and corporate income tax and death duties, and remit funds to the provinces, but this recommendation met stiff resistance from the provinces. However, the Second World War brought about what a Royal Commission’s recommendations could not. The federal government took over these tax sources for the duration of the war and, in exchange, made specified grants to the provinces under the Tax Rental Agreements. By most accounts, this was the high point of centralization in the Canadian tax system, just as the half decade leading up to the Depression had been the high point of decentralization.

The Tax Rental Agreements continued after the war, although with significant modifications in scope and structure, including the withdrawal of Quebec and the partial withdrawal of Ontario in 1947. Renewed in 1952, the first major change in the agreements came in 1957, when provinces were given a choice: they could continue to “rent out” the direct taxation field to the federal government; or they could levy their own income taxes and



succession duties, and have the government in Ottawa provide an offsetting "abatement" of federal tax payable. At the same time, fiscal equalization payments were explicitly introduced for provinces where income tax and succession duties yielded less than an Ontario-B.C. average. In a subsequent series of federal-provincial negotiations, the abatement of federal taxes was steadily increased to provide more "tax room" to the provinces. The federal personal income-tax abatement, originally set at 10 per cent of the federal tax payable, rose to 28 per cent by 1967. In 1962, in a further legal change, provinces were required to impose their own corporate and personal income taxes. However, the federal government would continue to collect provincial taxes free of charge as long as they conformed with federal rules under provisions of tax collection agreements. Otherwise, the provinces were free to establish and administer their own systems, which Quebec did for both corporate and personal income taxes, and which Ontario did for corporate income taxes.

Through these successive arrangements, wartime fiscal centralization was dramatically changed. If we look only at revenues raised by each level of government from its sources, the federal share declined from 73.9 per cent of the total in 1945, to 67.1 per cent in 1955, and to 43.3 per cent by 1983. The provincial and local share rose in the same years from 26.1 per cent to 32.9 per cent, to 56.7 per cent. At the same time, intergovernmental grants increased, making the shift even more dramatic. After transfers are accounted for, federal revenues dropped from 69.2 per cent of the total in 1945, to 32.6 per cent in 1983, and the provincial and local share rose from 30.8 per cent to 67.4 per cent.<sup>1</sup> The broader historical pattern, expressed in terms of gross national product (GNP), is shown in Table 22-12.

There are other indicators of relative decentralization and increasing flexibility. From the inception of the Tax Collection Agreements, provinces were free to fix their tax rates above or below the amount of the federal abatements. Their flexibility was enhanced later, when abatements ceased for personal income taxes. The provinces were to introduce various tax credits against provincial tax payable, thus increasing their autonomy and flexibility. These changes also led, especially in the 1970s, to increased diversification in provincial tax rates. In 1985, provincial personal income-tax rates as a percentage of the federal tax ranged from a high of 60 per cent in Newfoundland to a low of 43.3 per cent in Alberta and 43 per cent in the Northwest Territories. Provinces also gained more flexibility with respect to the grants they received from the federal government. A larger proportion of federal grants took the form of either unconditional payments (equalization) or block grants with few and broad conditions.

Intergovernmental transfers also increased: as a proportion of federal expenditure, they rose between 1945 and 1983 from less than 4 per cent to more than 18 per cent. Each government levies its own taxes, but only the federal government raises its entire revenue, excluding borrowing, of course, through taxation. The others—provinces, local authorities, and hospital boards—rely, to varying degrees, on transfers from other governments. In 1983, for example, the federal government received slightly more than \$70 billion in revenue and transferred nearly \$17.5 billion. In other words, for

**TABLE 22-12 Total Government Revenue Expressed as a Percentage of Gross National Product, Before and After Exclusion of Intergovernmental Grants from Revenue of Recipient Government, Selected Calendar Years, 1926–1982**

Year	Federal	Provincial <sup>a</sup>		Local		Total, <sup>b</sup> Excluding Grants
		Including Grants	Excluding Grants	Including Grants	Excluding Grants	
1926	7.6	3.4	3.0	6.7	6.3	16.8
1939	8.6	7.1	5.5	7.2	6.6	20.7
1946	22.1	6.1	4.6	4.4	3.7	30.4
1955	17.6	6.5	4.8	4.9	3.8	26.1
1965	16.4	11.4	8.9	7.5	4.8	30.3
1975	19.2	18.0	13.5	8.5	4.4	38.9
1982	18.4	20.8	16.5	8.8	4.7	42.0

Source: Canadian Tax Foundation, *The National Finances 1983–84* (Toronto: The Foundation, 1984), Table 3.7.

Note: Since figures are rounded, there may be some disparity in the totals.

a. Includes Newfoundland for years subsequent to 1947.

b. These totals also include revenues of hospitals and of the Canada and Quebec Pension Plans.

every three dollars the federal government collected in taxes for its own use that year, it collected an additional one for the sole purpose of turning it over to another political authority, most of these funds went to provincial treasurers.<sup>2</sup>

By far the largest category of transfers are federal contributions to health, education and welfare programs. In 1983–84, over \$11 billion, or just over 60 per cent of the cash transfers, are accounted for in this manner: \$7.6 billion under Established Programs Financing, \$3.1 billion for the federal share of Canada Assistance Plan payments, \$70 million for other health and welfare, and \$182 million for bilingualism in education. The other large category is general purpose transfers of unconditional – principally equalization – entitlements, which total nearly \$5.5 billion or about one-third of the total cash transfers. Miscellaneous transfers such as payments to municipalities and territories account for the remainder.<sup>3</sup> These payments are summarized in Table 22-13. Table 22-14 summarizes payments for previous years.

The more than \$17 billion the provinces received as cash transfers in 1983 represented a fifth of the total funds at their disposal that year, a drop from just over a quarter in 1975.<sup>4</sup> The provinces, in turn, remitted one-third of their total revenue – \$27.8 billion – to local governments and school and hospital boards. On a net basis, the provinces paid out over \$10 billion more than they received. In effect, they financed their entire expenditure on goods and services from their own revenues or, in some instances, by borrowing. Local governments, by contrast, raised only about half of their total revenues



TABLE 22-13 (cont'd.)

	Nfld.	P.E.I.	N.S.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.	Territories	Total
	(\$ millions)											
Subtotal	76.3	22.9	112.0	152.0	1 059.1	1 054.5	134.8	196.1	410.4	532.2	463.8	4 578.1
Total cash transfers	835.6	199.6	1 042.3	931.0	5 655.2	3 997.0	966.4	548.0	1 112.6	1 466.5	483.5	17 650.4
EPF tax transfer												
13.5 personal income tax points	63.2	13.3	120.2	89.0	1 095.4	1 922.8	173.0	181.8	624.0	654.8	16.9	4 954.5
1.0 corporate income tax points	2.3	0.6	4.2	3.0	46.9	96.1	7.6	9.9	79.6	24.8	0.8	275.8
Contracting-out tax transfer												
16.5 personal income tax points to Quebec	—	—	—	—	1 338.9	—	—	—	—	—	—	1 338.9
Total tax transfers	65.5	13.9	124.4	92.0	2 481.2	2 018.9	180.6	191.6	703.6	679.6	17.7	6 569.2

Sources: Canada, Treasury Board of Canada, Press Release, 83/10, February 22, 1983; Finance Canada, mimeographed data; Canadian Tax Foundation, *The National Finances 1983-84* (Toronto: The Foundation, 1984).

a. As from Treasury Board of Canada, Press Release, 83/10, February 22, 1983.

b. Includes adjustment for Manitoba, British Columbia, and prior years not allocated by province.



**TABLE 22-14 Summary of Federal Contributions to the Provinces, Municipalities, and Territories, Fiscal Years Ending March 31, 1974 and 1981**

	1974 <sup>a</sup>	1981 <sup>a</sup>
	(\$ millions)	
<b>Payments to provinces</b>		
General purpose transfers		
Equalization	1 517.0	3 590.4
Share of federal estate tax	0.1	—
Adjustments for prior years	—	—
Share of income tax on certain public utilities	25.9	134.8
Grants in lieu of provincial property tax	2.8	6.5
Income tax guarantee	42.6	—
Share of tax on undist. income	—	45.6
Reciprocal taxation	—	145.3
Statutory subsidies	33.8	34.1
Sales-tax/reduction program	—	—
Recovery of youth allowances	-53.1	-163.4
Other	0.2	—
Total general purpose transfers	1 569.3	3 793.2
Specific purpose transfers		
Hospital insurance	1 073.2	2 474.3
Medicare	676.2	857.1
Other health services	39.1	641.8
Social services	721.3	2 052.3
Education		
Post-secondary	485.1	1 600.3
Other	99.0	178.9
Transportation and communications	47.1	71.4
Other	248.4	642.8
Total specific purpose transfers	3 389.1	8 518.9
Total payments to provinces	4 958.4	12 312.2
<b>Payments to local governments</b>		
General purpose transfers	64.0	157.7
Specific purpose transfers	101.0	151.9
Total payments to local governments	164.9	309.5
<b>Payments to territories</b>		
General purpose transfers	85.3	273.0
Specific purpose transfers	10.8	48.7
Total payments to territories	96.1	321.7
<b>Total federal payments</b>	5 219.4	12 943.4

Source: Canadian Tax Foundation, *The National Finances 1983-84* (Toronto: The Foundation, 1984).

a. As from Statistics Canada, Federal Government Finance, Catalogue No. 68-211, various years.

themselves, and hospital boards only about 5 per cent. These latter jurisdictions are the main net recipients in the intergovernmental transfer system which is in place today.<sup>5</sup>

Table 22-15 shows the historical evolution of these intergovernmental transfers. The proportion of the federal budget committed to such transfers has generally increased, and provincial dependence on them has been fairly constant. There has been a decline in both of these dimensions, however, in the last few years.

As Table 22-16 illustrates, provinces vary greatly in their dependence on federal transfers. In 1980-81, all four Atlantic provinces met almost half their revenue needs from federal sources, though this proportion dropped somewhat by 1984-85. Similarly, Manitoba's proportion declined, from 38 to 30 per cent. Quebec received almost a quarter of its revenues from the Government of Canada. Ontario, Saskatchewan and British Columbia each received about 17 per cent from federal sources. Alberta, with its large resource revenues, was least dependent on federal sources.

The pattern, then, is one of extensive interdependence between the federal and provincial fiscal systems, marked by a relatively high degree of decentralization combined with an impressive degree of co-ordination. Why has it developed in this way?

At first glance, a tax system in which each level of government is fully responsible for raising and spending its own funds seems attractive. It is the arrangement most compatible with the tenets of classical federalism: in its designated sphere, each order of government is free to exercise its policy discretion. It is only logical that all levels be given the financial means to carry out their assigned responsibilities as they see fit.

Such a system encourages fiscal responsibility and thus accountability. Like individuals, governments are more careful about their actions if they

**TABLE 22-15 Transfers as Proportion of Total Federal Expenditures and Total Provincial Revenues**

Year	Federal Transfers to Other Government			Provincial Transfers From Other Governments		
	Total Transfers ('000 \$)	Total Expenditures ('000 \$)	Transfers as %	Total Transfers ('000 \$)	Total Revenues ('000 \$)	Transfers as %
1945	157	4 298	3.6	164	621	26.4
1955	450	4 806	9.4	465	1 842	25.2
1965	1 431	8 551	16.7	1 379	6 328	21.8
1975	7 670	35 508	21.6	7 577	29 830	25.4
1983	17 361	94 507	18.4	17 123	82 561	20.7

Source: Statistics Canada, *Historical Statistical Compendium*, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Ottawa: Statistics Canada, 1985), Tables 5.4, 5.5.

**TABLE 22-16 Total Federal Transfers as a Percentage of Gross General Provincial Revenues**

	1980 – 81	1984 – 85
Newfoundland	47.7	47.2
Prince Edward Island	52.8	47.4
Nova Scotia	45.8	39.7
New Brunswick	43.9	42.4
Quebec	22.0	23.1
Ontario	17.3	16.1
Manitoba	37.6	30.3
Saskatchewan	16.9	14.9
Alberta	7.7	9.2
British Columbia	16.1	16.9
Canada	20.1	20.5 <sup>a</sup>

*Sources:* Figures for 1980–81 are based on data from Canadian Tax Foundation, *Provincial and Municipal Finances 1981* (Toronto: The Foundation, 1981), p. 46. Figures for 1984–85 are based on data from Karin F. Treff, "Provincial Estimates fro 1984–85", *Canadian Tax Journal* 32 (September-October 1984): 1003–12.

a. Includes the Territories.

know that they will be held directly responsible for them. This truism implies that the governments that do the spending should raise the taxes. It is too easy for governments to cater to narrow special-interest groups when they do not need to tax their constituents to finance the implementation of their promises.

Why, then, would a federation opt for any other system? There are a number of reasons. First, the provinces have an uneven fiscal capacity. For a given "tax effort", governments in poorer regions will raise less revenue than those in wealthier regions and, hence, will provide inferior services. Alternatively, they will have to tax at a higher rate to provide a comparable level of public sector goods and services. This poses problems of both equity and efficiency, and it is the primary justification for equalization.

A second problem is that separate income-tax systems are more costly to operate and are inconvenient for taxpayers. Two or more of the 11 different tax-collecting bureaucracies that such an arrangement would require, might stipulate that companies and individuals fill out each year potentially quite different tax-return forms. At a minimum, Canadians would want tax-collection efforts to be co-ordinated and governments to collaborate in the enterprise.

A third problem is that of matching revenues to expenditure responsibilities. Left to themselves, some levels of government would be unable to raise

sufficient revenue to carry out their constitutionally assigned expenditure responsibilities, while others would have more than adequate access to funds. The case has traditionally been made that the federal government has taxation capacity beyond its spending responsibilities, while the provinces, and especially the municipalities, are in the opposite situation. This circumstance is a result of the rapidly increasing demands on regional and local governments, coupled with inelastic tax sources. Recently the reverse has been considered more accurate; the federal government now faces the structural deficit problem, while the provinces—at least the resource-rich ones—have the capacity to run persistent surpluses. Whichever way the imbalance may run at any particular time, the implication of this position is that intergovernmental transfers are a necessary part of our fiscal arrangements.

An imbalance between revenue capabilities and expenditure responsibilities might arise because one order of government is excluded constitutionally from one or more of the important taxation sources. Another factor might be that while formal access exists, economic and political circumstances prevent authorities from making full use of some tax sources. Competition among the provinces or municipalities for investment or for skilled labour might lead those authorities to bidding down income and business taxes to, or even below, the costs of services provided. The central government faces less constraint in this respect. Thus it may be more efficient for the central government to levy the “correct” taxes on all income and redistribute the proceeds.

In the fourth place, regional governments operating in a completely decentralized tax and expenditure system might vary their tax and expenditure practices according to any local needs and aspirations they perceived. Such action is perfectly consistent with federalist principles, but it can pose problems for the nation more generally in the form of “spill-overs” and lack of tax harmonization. Both problems stem from the fact that individual jurisdictions tend to ignore the effects of their actions on residents of other regions.

It is inevitable in an economy where products and factors of production are traded between regions that taxation and expenditure decisions in one region will affect output, investment and migration decisions in another. Local authorities will have no reason to worry about these spill-overs, since they are not responsible for them; on the other hand they are not in a position to appropriate any of the political benefit from those spill-overs which are beneficial. Thus some governments may undersupply some services, such as higher education, the benefits of which they cannot fully capture because graduates may migrate to another jurisdiction. Under these circumstances, some citizens will be directly affected by the taxation decisions of a government over which they have no political control, and which they can neither reward nor punish; others, inside or outside local boundaries, will suffer from the undersupply of some forms of public services. One solution is to shift the taxation function and some aspects of expenditure to a more broadly based political authority, one that is responsible to all citizens affected by the policy it exercises.



Another problem stemming from spill-overs is that individual decision makers will not always make the correct decisions if they are not formally responsible for the outcomes. For example, jurisdictions that are able to “export” their tax burden—that is, shift it onto others—will tend to use this revenue source excessively. If citizens of other jurisdictions bear part of the cost, governments will tend to supply more services than residents might otherwise rationally choose. Tax exporting can therefore lead to government that is “too big”. Similarly, if a jurisdiction cannot shift its tax burden outside its borders but fears the “leakage” of some of the benefits it provides, it might supply fewer government services than residents might rationally choose, thus producing a government that is “too small”. Since a central government is by definition responsible to a more broadly based set of individuals, the spill-over effects of its taxing efforts are less serious, and it may, through shared-cost programs, be able to instigate more appropriate levels of expenditure on service programs under provincial jurisdiction.

A fifth problem is that Canada could eventually find itself with a completely disharmonized tax system in which taxation rates and even definitions of taxable income vary greatly across provinces. This state is the “tax jungle” which so concerned Canadians in the 1930s. Similarly, the nation could produce a completely disharmonized service-delivery system which lacked any portability of benefits and which made widely different services available from one jurisdiction to the next. In either situation, the principle of horizontal equity as applied to federalism would be eroded: that is, individual Canadians who are identical in every respect except in their province of residence and who should be treated equally by the government sector, would, in fact, be treated quite differently.

The obvious rejoinder to this concern is that the desire to implement different social and redistributive policies was the reason for establishing a federation in the first place. One can ask the central government to treat similarly situated Canadians in the same way, wherever they live, but the horizontal equity principle stops there: one cannot always expect provinces to do the same.

Another concern about the potential lack of tax harmony or national standards in service-delivery programs relates to economic efficiency. If labour or capital is treated differently enough by the various provincial tax-expenditure systems, location decisions can be affected; for example, when deciding upon whether and where to migrate, workers will take into account both their expected earnings and the package of government services they receive for taxes they pay. If this—rather than economic productivity—is what shapes decisions to move or to stay, then overall efficiency is sacrificed. However, if taxation can be arranged to remove all fiscal influences from the location decisions of capital and labour, and if governments can provide uniform services across Canada, economic output will again be at a maximum. How better is this uniformity to be achieved than by turning responsibility over to a central government and having it return part of the revenue to the provinces according to a pre-arranged formula?

Provinces can compete only for labour and capital, which are relatively mobile factors of production; but their treatment of less mobile factors, such

as land or equipment which is already in place, can vary. This situation may lead provincial governments to turn increasingly to just such sources to finance general expenditures. They bid down, perhaps to zero, some taxes, such as inheritance or succession duties, while they expect others, such as those on property, to bear a greater share of the burden.

In addition, if the processes of federalism engender harmony among provinces, their competition in the matter of tax and expenditure decisions may frustrate the achievement of provincial redistributive or economic-development goals. Generous redistributive schemes may drive out wealthy taxpayers and attract poor ones from neighbouring jurisdictions, undercutting the effectiveness of the scheme. Other provinces will quickly copy tax inducements to investment and in the end will achieve nothing. It may be that only a national government, which is able to exploit some monopoly taxing advantage, can implement a truly redistributive scheme or an effective development program. Distinct regional ventures in these areas, however attractive they may be in principle, may simply be infeasible.

A sixth problem with a decentralized tax and expenditure system is that it may impair the country's capacity to carry out meaningful counter-cyclical fiscal policy. Stabilization policy is traditionally held to be a logical function for the central government. Small regional governments will see most of their efforts dissipated because of the very open nature of their economies. Tax breaks will encourage spending on another province's output as often as they will promote expenditure on local production. Stabilization policy will therefore be less effective. Since the national economy is larger and more self-contained than any provincial economy, this problem is less severe for the federal government. For the Government of Canada to be able to carry out this role effectively, however, it must control a significant part of the total tax and expenditure base. Otherwise, provinces and municipalities might simply offset any federal measures by altering their own taxing and spending decisions in such ways as to reinforce, rather than counteract, the business cycle.

There are three common counter-arguments to this position. First, some economists now deny that any government, federal or other, can actually implement effective counter-cyclical stabilization policies. Secondly, even assuming that there can be a role for the federal government, it is not clear how large a share of total tax sources that government needs to carry it out. The share certainly does not amount to 100 per cent, as is sometimes implied, but it is difficult to know what would be a critical minimum. Finally, it is not necessarily true that provincial governments will act inappropriately.

As Commissioners noted in Part III of this Report, we do not agree that effective stabilization policies are impossible to implement, although we do suggest that several caveats should be observed in applying them. We also believe that the tax and expenditure base for the federal government is sufficient to allow it to conduct effective stabilization policies. We are further convinced that the harmonization of tax systems and the achievement of some national standards of service-program delivery are an important part of our Canadian nationhood; and we have noted instances, such as that relating to

post-secondary education, where the absence of conditions attached to federal funding arrangements may have resulted in a serious undersupply of services.

For these reasons we are convinced that the current interlinking of federal and provincial tax and expenditure arrangements is generally appropriate. This arrangement forms a solid basis for development and for program and institutional reforms.

Commissioners next address the mechanisms through which tax and program harmonization occurs. In what follows, we have not attempted to recommend specific proportions of overall revenues and expenditures appropriate for each level of government. In any event, these decisions might vary slightly from year to year, but more important, they can only be made pursuant to broader considerations of tax reform: before we can divide the pie, we must know its size, shape and flavour. That seems to us to require another investigation with a narrower mandate focused on the types of tax-reform issues raised earlier and the division of the resulting revenues.

## **Tax-Collection Agreements**

The federal government presently administers and collects personal income taxes for all the provinces except Quebec. It defines what constitutes income, and what deductions are allowed the taxpayer, and it determines the amount of taxable income against which the provincial tax rate is levied. The provinces then apply a single percentage to the resulting "Basic Federal Tax", to calculate provincial tax payable before credits. At this point provinces are entitled to specify any tax credits of their own, such as those for property-tax allowances or political contributions. The federal government will administer these individual programs for a sliding-scale fee, provided that they meet certain criteria of simplicity and are not construed as altering the essential harmony of the overall tax system. This system is commonly referred to as "tax on tax". A taxpayer is taxed by the particular province in which he is resident on the last day of the calendar year.

The corporate income-tax arrangements are quite similar. The federal government defines the structure of the tax, and the participating provinces (all but Ontario, Quebec and Alberta) set their own rates against it. The provinces levy their rates, however, against corporate taxable income as defined for federal purposes, and not against federal tax payable. This means that the provinces are free to establish their own rate of tax or to vary rates, according to size of enterprise, for example. All provinces, even non-signatories, abide by a common formula for allocating the taxable income of corporations or businesses operating in more than one jurisdiction across provinces, a matter of great dispute in some other federal countries.

These principles suggest two questions concerning the current Tax Collection Agreements. First, do they provide an economical and convenient way of collecting tax revenues? That is to ask, do they minimize cost of administration and of taxpayer compliance? Secondly, do they provide the best possible trade-off between the wish to accommodate governmental autonomy and the need for fiscal harmonization?



There is little evidence to indicate how efficient the current Canadian arrangements are compared with those of a less centralized system. The Ontario Economic Council, however, attempted to estimate the costs to that province of establishing a separate personal income tax. It concluded that they would be "sizeable".<sup>6</sup> This suggests that co-ordinated administration and collection are valuable, and that a loss generated by the establishment of nine more agencies would be unfortunate.

The desirability of harmonization is a more powerful motive for tax collection agreements. The ideal federal tax system has been described as one in which:

*One obtains the benefits of centralization in the form of tax harmonization and low collection costs while at the same time accommodating the desires of the provinces to pursue their own tax policies and structures in accordance with the desires of their limited constituencies in a manner which does not unduly fragment the economic union.*<sup>7</sup>

How well do the Tax Collection Agreements fare by this criterion?

The arrangements have served us well up to now. Canada has one of the most harmonized tax systems of any federation, notwithstanding its apparently decentralized features. Even non-signatories, for example, abide by the allocation formula for corporate tax. Yet the system still allows considerable regional diversity and offers much flexibility for provinces to decide how to raise their revenues.

The problem, however, is that this high degree of harmony and co-ordination shows signs of breaking down. Alberta has recently withdrawn from the corporate income tax agreements and established its own system. British Columbia has threatened to follow suit. Two provinces, Ontario and Alberta, have recently considered publicly withdrawing from the personal income-tax arrangements unless certain changes are introduced. In 1979, Quebec initiated a Stock Savings Plan which allowed a resident of that province to deduct up to \$15 000 from provincial taxable income corresponding to purchases of new shares of Quebec companies. British Columbia recently introduced a Housing and Employment Bond Tax Credit which Ottawa has agreed to administer, and which will "erect barriers to interprovincial flows of enterprises and capital".<sup>8</sup>

A process which once was flexible enough to balance the need to accommodate regional diversity with the economic benefits of a nationally consistent tax environment has recently fallen somewhat short of meeting the challenge. In part, this is because the demands on it have increased significantly. Provinces now pursue a broader range of objectives in their economic and social policies, and are therefore much more insistent on indicating what tax policies they need.

When provincial and federal income-tax systems interlock, to change the federal revenue system can raise serious problems, for changes which increase or decrease taxable income necessarily affect the level of provincial revenues. For this reason, provinces have called for full consultation before such changes are made and have frequently criticized perceived federal failures to act on their request. Well-known examples of unilateral federal moves are the



introduction of indexing of personal income tax in 1974 and the significant structural changes of the federal budget of November 1981. (It was the latter move which prompted Ontario to consider the feasibility of withdrawing from the Tax Collection Agreements.) The tradition and practice of budget secrecy exacerbates the difficulty, since it effectively precludes advance consultations with, or advice to, provincial governments. The same is true with respect to federal understanding of proposed provincial budget initiatives.

There are two views about what should be done in the matter of the Tax Collection Agreements. One view holds that these arrangements should not be changed. Provinces have remained party to the Agreements to this point because they derive considerable benefit from them; a mass defection would be highly unlikely. Even if the process of fragmentation were to continue, however, it might not pose a serious problem. Canada's tax system is highly co-ordinated now, not because of the good will of politicians and public servants, but because the provinces, as small open economies, have little freedom to deviate from the practices of others without suffering economically. As locally sovereign jurisdictions, they are entitled to choose to do so anyway: poor decisions will be reflected in the results of the next election; good ones will be picked up and implemented by other provinces and eventually accepted by the federal government.

The alternative view does not deny the rationality of economic and political actors, but recognizes that some situations can lead them to behave in mutually destructive ways. Indeed, chains of action and reaction can leave everyone worse off than before. Rules which are commonly agreed to and clearly stated at the outset can do much, however, to prevent this type of mutually destructive behaviour.

Commissioners base a number of conclusions and recommendations on this analysis. The Tax Collection Agreements have served Canada well. They provide a considerable convenience to both citizens and governments. As a powerful inducement to maintain tax harmonization, they also strengthen the economic union. Therefore, they should be retained.

Nevertheless, the agreements are presently under considerable strain. The prominent role of provincial taxes in Canada's public finances, the often acrimonious nature of federal-provincial fiscal negotiations, and the tendency of provincial tax structures to diverge are all points that raise important issues. Canadians wish to maintain the agreements, but without diminishing either the accountability of legislatures or the flexibility of the system.

Provinces have two important concerns with the existing arrangements. First, the federal government is not required to notify provinces in advance of federal changes in the tax base or rate structure, although such changes will inevitably affect provincial revenues. However, the agreements provide a one-year revenue guarantee: where a federal change reduces provincial receipts by more than 1 per cent, provinces are compensated for the loss for one tax year, to give them time to adjust their rates in light of the change.

Unilateral federal changes are a greater problem for the personal income tax than for the corporate income tax, because of differences in the way the agreements are implemented. In the corporate case, provincial tax rates are applied to the federal tax base; this means that federal rate changes do not

affect provincial revenues; only changes in the base do so. In the matter of the personal income tax, provincial rates are applied after the federal rate has been set. This Commission recommends that the agreements be amended to place the personal income tax on the same footing as the corporate tax: that is, to apply the provincial rates to the common, federally-determined base. This measure would both reduce provincial vulnerability to federal tax changes and increase provincial autonomy, since provinces would be freer to make their own decisions about how progressive their tax structures should be. Earlier tax-collection agreements ensured uniformly progressive tax structures across the country; however, the permission given to provinces to include various tax-credit and -exemption programs in their tax administration has already modified this uniformity.

A second potential irritant is that while provinces and the federal government share the revenue base and have equal constitutional authority for taxation, it is the federal government which determines the tax base for provinces within the agreements. Some analysts argue that the tax bases should be determined jointly through negotiations among the participating governments and altered only by common consent.

This Commission does not recommend such a course. To require intergovernmental agreement on all changes to the tax base would unduly hamper flexibility and would reduce the federal government's accountability to Parliament for its financial activities. Under the present system, a province can opt out of the Tax Collection Agreements if it finds federal actions intolerable; the threat that it might do so is a reasonable guarantee of federal sensitivity to provincial interests. Moreover, under the agreements, provinces are permitted to request a variety of tax credits and exemptions which allow them considerable flexibility. The federal government will agree to administer such provincial programs if they meet three conditions: they must be administratively feasible; they must apply to income actually earned in the province involved; and they must not interfere, or have the potential to interfere, with the economic union. The great majority of provincial requests have been accepted, though some, such as British Columbia's proposals for a dividend tax credit for firms in the province, have been refused. Again, the incentives seem roughly right in this case: a province committed to a program can opt out of the agreements to implement it; the federal desire to avoid that occurrence should make it sympathetic to provincial proposals.

Although there is no need for fundamental change, two additional proposals would help to improve co-ordination of tax systems. First, as part of our larger concern to reduce the comprehensive budget secrecy Canadians have experienced and to ensure wide discussion of budget proposals in Parliament and provincial legislatures, Commissioners recommend that in developing any tax change which would significantly affect the federal-provincial relationship, the federal government consult with provinces in advance. Secondly, while we endorse the quinquennial review of federal-provincial fiscal arrangements, we suggest that the Council of Ministers of Finance should extend this consultation process to include a regular and broad review of current practices. To assist the Council, we recommend that a federal-provincial Tax Structure Committee of officials be formed to assess

definitions of taxable income, basic exemptions, marginal tax rates and related issues, and to monitor the division of tax room between the two orders of government in light of anticipated revenue and expenditure needs.

Commissioners emphasize that these proposals are meant to “fine-tune” a process which already works reasonably well. Co-ordination of fiscal arrangements and harmonization of the tax-collection system represent two of the achievements of our federal system.

## Intergovernmental Transfers

As governments have extended their activities in the post-Second World War period, all federal systems have made increasing use of intergovernmental transfer arrangements. These arrangements permit one order of government to share in the funding of programs of another order by transferring funds or tax-collection authority. In Canada, the federal government transfers money and tax “room” to the provinces, and provincial governments transfer cash to municipal authorities and hospital boards.

In Canada, these transfers are massive. In 1983–84, the federal government transferred a total of \$17.6 billion in cash payments to the provinces. Of this amount, about \$5.5 billion took the form of “general purpose” or “unconditional” grants, mainly equalization payments. The remainder took the form of payments linked to specific programs. A total of \$7.6 billion formed the cash portion of transfers under the Established Programs Financing arrangements, covering federal aid to health care and post-secondary education. Another \$4.6 billion related to other shared programs. By far the most important of these is the Canada Assistance Plan, which received \$3.1 billion. In addition, the Established Programs Financing arrangement, originally enacted in 1977, has divided the federal contribution to these programs into a cash portion and a transfer of equalized tax points. In 1983–84, the latter had the value of another \$6.6 billion. The dollar value of all these transfers tripled between 1974 and 1984.<sup>9</sup>

The size of these figures suggests that management of intergovernmental transfers is a major issue for the federal system. Two sets of questions have loomed large in recent years and promise to pose difficulties for the future. The first set relates to whether there should be limits on the power of the federal government to spend funds in areas under provincial jurisdiction: To what extent should the federal government be able to use its spending power to project the national interest into areas not under direct federal authority?

The second set of questions arises from the serious strains created as governments struggle to restrain expenditure growth in order to reduce the size of public sector deficits: How will efforts to restrain spending at one level spill over to affect the programs of the other? Will cut-backs effected by one order of government increase the demand for services at the other? Alternatively, will they reduce the financial capacity of the other to pay for them? More specifically, should federal transfers to the provinces be protected or privileged in any way, given the high degree of provincial dependence on them?



While such concerns are never far from the surface in any federal country, both became particularly prominent in Canada after 1980. They were reflected, first, in the debates on federal-provincial fiscal arrangements and Established Programs Financing in 1982–83; later, they surfaced in the debate about health-care policy surrounding passage of the Canada Health Act in 1983.

## ***Background***

Intergovernmental transfers have been a key instrument in allowing the Canadian federal system to adapt to the new roles of government. While many of the new responsibilities of government clearly lay within areas of provincial jurisdiction, they were often beyond the financial means of provincial governments. Publicly financed health-insurance or greatly expanded post-secondary education systems, for example, were simply too costly for most provincial governments to support on their own. Moreover, in post-secondary education, where the mobility of graduates meant that spending by one province would spill over to benefit others, individual provincial governments, acting quite properly in their own interests, would provide a less extensive service than would be desirable from a national perspective. Federal assistance was required, therefore, to meet total national needs. Given the obstacles and objections to the constitutional transfer of all these responsibilities to the federal government and the broader desire to retain the advantages of federalism, a solution was found in the shared-cost program under which that government would pay part of the costs of meeting new needs. This program became the hallmark of post-war co-operative federalism, not only in social policy, but also in a wide range of economic development programs, such as construction of the Trans-Canada Highway. Today there are shared cost agreements, large and small, bilateral and multilateral, in almost every program category, and in virtually all government departments.

A wide variety of particular arrangements is possible under the shared-cost program. In general, these may be divided into two broad types: cost-matching arrangements and block-funding arrangements. In cost-matching arrangements, the federal government agrees to reimburse provincial treasuries for some fixed proportion (usually one-half) of provincial expenditures on programs covered by the agreements. The clearest current example is the Canada Assistance Plan, through which the federal government reimburses provincial governments 50 per cent of the costs of social assistance and social service programs, provided that the support goes to people "in need or likely to become in need". The post-secondary-education/financing arrangements in force from 1967 to 1977 comprised a slight variant under which the federal government transferred 50 per cent of institutional operating costs.

In block-funding arrangements, the federal transfer is less directly related to specific program costs and, instead, takes the form of an equal dollar-per capita transfer multiplied by the provincial population. The pre-1977



Medicare grant, for example, was based on the national average per capita costs of medical insurance programs in each year.

The major current block-funding arrangement is Established Programs Financing (EPF). Under that arrangement, transfers from the federal government to provinces are calculated in the following way. First, the per capita operating costs of health insurance and post-secondary education are established for 1975–76, the base year. Then one-half of this amount is compounded each year by an amount equal to the three-year moving average of nominal gross national product (GNP) increases. Finally, the result of these calculations is multiplied by the provincial population in the year for which payment is to be made. The subsequent transfer is made in the forms of cash and tax room. It is apparent, then, that block-funding transfers are not totally unrelated to program expenditures. EPF funding is related to 1975–76 program costs. However, the relationship deteriorates over time. There are also mixed transfer mechanisms: for example, the Hospital Insurance and Diagnostic Services transfers of 1957 to 1977 were based on 25 per cent of actual provincial expenditures and 25 per cent of national average per capita costs.

Cost-sharing arrangements may be more or less strongly conditional. In highly conditional programs, the federal government defines quite specifically the terms and conditions which provincial governments must meet in delivering programs if they are to qualify for the federal grant. Under less conditional arrangements, the provincial government receives funds almost regardless of the nature of its programs. The current funding arrangements for post-secondary education are highly unconditional: provinces receive transfers regardless of the support which they, in turn, provide for post-secondary education. By contrast, the current funding arrangements for health insurance under EPF and the Canada Health Act are highly conditional: provinces must deliver health-insurance programs which meet clearly defined criteria, and they are subject to clearly identified financial sanctions if they fail to do so.

Finally, as we have already mentioned, transfer arrangements may provide for the transfer to be in the form of either cash or tax-collection “room” which the federal government vacates in favour of provincial treasuries. The EPF arrangement, for example, provided for the federal government to withdraw from 13.5 percentage points of personal income tax and from 1.0 percentage point of corporate income tax, and allowed provinces to “occupy” that tax room and collect the revenues; this vacated tax room was intended to make up one-half of the total federal EPF transfer. Where funding is provided through tax transfers, federal control of provincial programs declines: tax points, unlike cash, cannot be cut or withdrawn; and provinces see tax points not as labelled for, or targeted to, specific programs, but rather as part of their general revenues. Responding to federal concerns that cash and tax transfers for post-secondary education were being diverted to other uses, provincial treasurers tended to reply that under EPF, there was no longer a direct link between the transfer and specific purposes; in their view, the transfer could be spent for any provincial purpose. While the federal

government considered the transfers to be "incentive grants", designed to influence provincial priorities, provinces tended to treat them as unconditional.

Taken together, all these elements of intergovernmental transfer arrangements make for a bewildering picture. However, the complexity provides at least one great service to Canadian governments: it makes the arrangements potentially very flexible. For example, if we Canadians wish to decentralize our fiscal system further and to provide more power and authority to provinces, we shall tend to choose arrangements which are block-funded, and which have few conditions and a significant tax-point transfer. On the other hand, clearly defined conditions can be imposed, among other purposes, to create a somewhat higher degree of centralization and national standards.

The federal and provincial governments have debated the character of transfer arrangements with the introduction of each major shared-cost program. In the 1950s and early 1960s, with the important exception of Quebec, there seemed to be broad consensus that these programs were an appropriate means to achieve desirable national standards, and to ensure that the full range of modern government services was available to all Canadians. Provinces themselves often called for greater federal financial involvement in the rapidly growing areas which were under provincial jurisdiction.

By the 1960s, consensus began to erode. Quebec governments had rejected shared programs even before the 1960s, on the grounds that they represented an unconstitutional use of federal spending power to invade provincial jurisdiction and to impose "national" values on a distinct Quebec society. This essentially negative reaction to federal programs was reinforced after 1960 as successive Quebec governments embraced the Quebec state and sought to use it to expand their own programs and to develop that province's society. The call, therefore, was not simply for federal restraint, but for increased provincial fiscal ability to pursue provincial priorities. One result was the Established Programs (Interim Arrangements) Act of 1964, which allowed any province to "opt out" of a large number of shared programs and to receive, through a combination of tax points and "topping-up" payments, funds equivalent to the funds that the federal government would have spent on the program if the province had chosen to participate.

Only Quebec took advantage of the arrangements to opt out, but as the welfare state matured, other provinces, growing more confident in their ability to manage their own affairs, increasingly resisted new federal initiatives. They also became more critical of federal "intrusions", arguing that they skewed provincial priorities, subjected provincial fiscal planning to the vagaries of federal decisions, and reduced provincial government flexibility, leading their legislatures to favour program areas where federal funding existed and to neglect those areas where it did not.

Further strains had developed by the 1970s. First, the federal government was concerned that Quebec's opting out and acceptance of tax points conferred a *de facto* special status; it therefore sought ways to restore the balance among provinces. Secondly, the federal government became more concerned about its ability to control its own expenditures; federal commit-

ment to supporting 50 per cent of program costs implied that the provinces' decisions determined a large part of federal spending. Moreover, the federal government worried that shared-cost programs generated few incentives to restrain spending: the arrangements implied that provinces could count on "fifty-cent dollars" for new expenditures; by the same token, if they did restrain spending, provincial treasuries retained only half of any savings.

All these forces pushed the federal government towards less centralized fiscal arrangements and underlay passage of the Established Programs Financing Act in 1977. The details of the arrangements were complex, but the principles were reasonably clear. Decentralization would be achieved by block-funding, by tax-point transfers and, for post-secondary education, by elimination of any direct link between either program expenditures or the terms and conditions under which programs were delivered. Overall costs would also be reduced by severing the links between payments and actual program costs; henceforth payments would be tied to increases in GNP, which, at the time, was rising more slowly than program expenditures. Federal contributions would be controlled and provincial incentives to restrain expenditure growth increased. Moreover, since the payments would be recast into a combination of cash and a transfer of tax points, all provinces would be brought more closely into line with Quebec.

The arrangements represented a major step towards greater provincial autonomy, towards "disentanglement" of federal and provincial responsibilities, and towards restraint. Once again, the flexibility of intergovernmental transfer arrangements had been demonstrated. However, the arrangements did not go the whole way to decentralization: the conditions attached to hospital insurance and Medicare remained unchanged; and provinces agreed to consult the federal government with respect to spending on post-secondary education.

By 1982, the situation had changed. First, rapid inflation in nominal GNP caused federal transfers to increase even faster than they would have done if they had remained tied to actual spending. Then, because of a guarantee built into the EPF formula (that the value of the tax points transferred to the provinces would always at least equal the value of the cash portion of the grant), as the recession hit, and as the yield of the transferred tax points declined, the proportion of federal transfers in the form of cash payments increased. Moreover, since transfers were no longer tied to program spending, the federal government believed that it had lost what little control it had once exercised over program content and standards. In a sense, the provinces had done with a vengeance just what EPF had invited them to do: they had restrained their expenditures in both health care and post-secondary education. In the health field, many provinces were experimenting with "user fees" and "extra billing" to limit the costs of health programs to provincial treasuries and thus reduce provincial, but not federal, spending. This led to federal concern that provinces were diverting funds to other purposes, with the result that, in post-secondary education especially, the federal share of total costs was rapidly increasing. Moreover, public opposition to perceived cut-backs and, particularly, to extra billing and user fees in health services translated into calls for federal action. Finally, in the wake of the Quebec



referendum and the constitutional debate, the federal government had become increasingly concerned about fiscal decentralization and the erosion of federal power. It believed that it had made too many concessions to the provinces, reducing its ability to affect vitally important programs, to account to Parliament for its expenditures, and to maintain direct links with citizens.

The federal government considered that the time had come to redress the balance; in 1982, it sought to regain some control over total expenditures and to restore a degree of influence for its programs. It capped, or established an upper limit on, transfers for post-secondary education and announced its intention to seek negotiations aimed at developing national standards and a defined federal role in that field. It also proceeded to develop the Canada Health Act. Its aim was to define clearly the original program conditions: universality, portability, accessibility, comprehensive coverage and public administration. In addition, it undertook to eliminate extra billing and user fees by applying dollar-for-dollar reductions in the federal transfers to provinces which used these devices. No federal-provincial agreement was reached on any of these issues, but since these were federal spending programs, the federal government was able to proceed on its own.

The intergovernmental debate focused on the complicated details of alternative formulae for transfer arrangements. The debate raised a larger question, however, about which alternative, in 1982, Canada should pursue. On the one hand, we could move farther along the path indicated by the EPF in 1977, and continue to decentralize transfer arrangements by making the transfers totally in terms of equalized tax points, by extending them to the Canada Assistance Plan, and by eliminating the conditions in the original Medicare and hospital-insurance programs. On the other hand, we could move back from the 1977 arrangements and return to more conditional funding arrangements by requiring provinces to be more accountable to the federal government for their use of federal transfers, and by developing a more direct policy-design role for the federal government. EPF might well have responded to the political requirements of the time, but it falls squarely between these two alternatives. And this, argues one observer, accounts for the instability of the arrangements. His conclusion with respect to post-secondary education applies to other areas as well:

*The Government of Canada must decide whether it means the PSE [post-secondary education] fiscal transfers to be program-related or not. If it believes they should be, then the scale, and/or the rate of growth, of the federal payments (transfers) must be related to some measure of the scale, or [to] the rate of growth, of expenditures in the provinces on or for PSE . . . If, on the other hand, the Government of Canada means simply to make an unconditional per capita grant to the provinces . . . then all reference to post-secondary education should be removed from the Act. It is as simple as that.<sup>10</sup>*

The issues raised by EPF and by the Canada Health Act extend to larger questions about the federal spending power and its place in Canadian public policy.



## *The Federal Spending Power*

Most shared-cost programs, as well as many programs (such as family allowances) which make payments to individuals, represent exercise of the federal spending power. The spending power is usually regarded as one of a number of general discretionary federal powers. Unlike the declaratory and disallowance powers, however, the federal spending power is nowhere explicitly defined. Rather, it is held to derive from more general principles. In part, it derives from the power of Crown prerogative, for all public revenues belong to the Crown, which is "a person capable of making gifts or contracts like any other person, to anyone it chooses to benefit." The Constitution requires that the Crown have the approval of Parliament or legislature; when this approval is obtained, the government may distribute revenues as it sees fit. This view implies that the donor of public revenues has the power to attach conditions to the grant, and the recipient has the power to refuse it.

The spending power has also been justified in the Constitution Act, 1867, under section 91(1A), "The Public Debt and Property", and under section 102, which authorizes a Consolidated Revenue Fund. Together these sections are said to confer on the federal government the right to spend for any purpose "provided the legislation does not amount to a regulatory scheme falling within provincial powers."<sup>11</sup>

Remarkably little constitutional assessment of the spending power has been attempted in the courts. Federal-provincial/shared-cost agreements have not been the subject of extensive legal challenges, and it does not appear that there are constitutional restrictions on the federal power to offer conditional grants to the provinces. The provinces are ultimately protected by their power to refuse to participate in these agreements; in political terms, however, this power may be more theoretical than real. The remaining constitutional uncertainty lies in grants awarded by the federal government to individuals and institutions, especially when such grants might be interpreted to constitute regulation within an area of provincial jurisdiction. Again, in this instance, the limited jurisprudence provides little guidance.

The question of limiting the federal spending power lies primarily in the political realm. This Commission believes there are a number of considerations which must be brought to bear. First, the federal government, in the name of national citizenship and the national political community, has the right and responsibility to respond to emergent needs and to changing conceptions of the national interest. The record of the past emphasizes the fact that the national interest is not static: rather it changes in response to changing international circumstances, changing issues, changing conceptions of citizenship, and changing aspirations. Matters once considered of purely local interest can, and do, become defined as national questions which demand national responses. There will often be emerging issues where provincial activity, even within provincial jurisdictions, is not a matter of indifference to the federal government. Where the federal government does not possess the constitutional authority, and where provinces are unable or unwilling to respond effectively to new needs, there is in the future, as there was in the past, a case to be made for wide federal freedom to put forward proposals for shared-cost programs.

The values of federalism, however, suggest that this ability should not be entirely unconstrained. The spending power introduces a necessary degree of flexibility into the federal system, but taken to its extreme, it can undermine the system by eroding the distinctions between federal and provincial responsibilities. On a more practical plane, federally imposed conditions in shared-cost programs—especially those which change frequently and without consultation with provincial governments—can hinder provincial attempts to plan and rationalize their activities and can admit possibly arbitrary and disruptive federal interventions into provincial administrative systems. To assess the federal spending power, we must therefore balance, on the one hand, the national interest and the associated concept of changing national objectives or values and, on the other hand, the preservation of the diversity of federalism and the administrative integrity of provincial systems.

Three other criteria must also be considered. Accountability must be a central aspect of our institutional reforms. One view of accountability argues strongly against the use of the spending power to promote shared-cost programs, for such programs can undermine the accountability of both orders of government. Provinces spend money which they are not responsible for having raised. The federal government transfers money to the provinces, but has little control over the manner of its spending. Citizens cannot hold the federal government accountable because they receive the services through the provincial government rather than directly. And Parliament cannot hold the federal government responsible because the federal government cannot specify precisely how the funds have been used. Under the Established Programs Financing arrangements, the severance of transfers from program costs and the lack of either effective program standards or enforcement mechanisms has accentuated this problem.

The principles of accountability push in the direction of disengagement. In principle, disengagement could be achieved either by transferring full responsibility for programs to the federal government or by transferring the full revenues required to the provinces. For health and education programs, the former strategy is not a real possibility in the Canadian federal system, although it might work for other, less contentious programs. The latter strategy would severely constrain the capacity of the federal government to act in the national interest on behalf of all Canadians. The development of clear conditions both for program delivery and for accounting provides an alternative approach to the accountability problem: with an appropriate legislative base, Parliament could hold the federal Cabinet responsible for its spending if the Cabinet, in turn, were able to hold the provinces accountable for their expenditure of the federal funds transferred to them.

Flexibility is another criterion which cuts two ways. In a larger historical sense, the spending power and shared-cost programs have made an essential element of flexibility available to the federal system. In a narrower sense, however, federally imposed conditions can reduce the flexibility of provinces in the operation of the programs. A classic example is the hospital-insurance program, where the focus on acute-care facilities inhibits experimentation with preventive medicine and chronic-care and after-care facilities. Some observers vigorously argue that the recent Canada Health Act, with its more

stringent federal sanctions against user fees and extra billing, its restatement and redefinition of the original program conditions, and its “suggestion” of how provinces might negotiate with physicians over fee schedules, has significantly reduced the capacity of provinces to experiment with more efficient delivery systems.

A final criterion is the desire to minimize administrative and decision-making costs. This consideration, too, argues for disentanglement. The more detailed the conditions of shared-cost programs, the more extensive are the bureaucratic resources that must be devoted to negotiation, monitoring and reporting, and the more room there is for bureaucratic wrangling. These considerations led the Royal Commission on Dominion-Provincial Relations (the Rowell-Sirois Commission) to warn against the “difficulties of divided jurisdiction” and to advocate retention, as far as possible, of the principle of “watertight” jurisdictional compartments. Hence it recommended that where federal initiative was essential, there should be a transfer of jurisdiction: shared-cost programs should be a last resort.

How can we balance these criteria and come to some conclusions about the appropriate uses of the federal spending power? Over the past two decades, advocates of change have made many proposals to clarify that power. There has been widespread agreement, even by federal governments, that the spending power should be subject to some constraints or limitations. Several possibilities have been examined.

One possibility is to abolish the spending power in areas of provincial jurisdiction. This proposal has received little support, for in the name of federalist purity, it would impose far too much rigidity. Indeed, since one impetus for many of the shared-cost programs was the desire of provinces for financial help in rapidly growing areas, it would likely be as unacceptable to many provincial governments as to the federal government. Commissioners therefore reject this option out of hand.

A second option would be to subject the federal spending power in areas of provincial jurisdiction to some form of consent mechanism. This is perhaps the most widely-canvassed approach: various mechanisms have been proposed by provincial governments, by the Quebec Liberal Party, by authors of the Pépin-Robarts Report, and by the Canadian Bar Association, among others. These groups would have used the device of a reformed Senate, made up of direct provincial delegates, to reach provincial consensus. Consent could also be registered by a First Ministers’ Conference, or, as in our constitutional amending formula, by the supporting votes of an appropriate number of provincial legislatures.

In 1969, the federal government proposed that the federal spending power be explicitly laid down in the Constitution, that its power to make unconditional grants be unrestricted, and that conditional grants in relation to federal-provincial programs which are acknowledged to be within provincial jurisdiction require “broad national consensus” before Parliament exercises its power. The consensus would be determined jointly by Parliament and the provincial legislatures.<sup>12</sup> In later constitutional discussions that took place between 1979 and 1981, the federal government also expressed its willingness to embrace a substantial provincial consent mechanism.



Such proposals provide a strong guarantee of the federal principle: they provide a very strong incentive for the federal government to look first to its own jurisdiction and to consult before proceeding, in order to maximize its chances of winning the requisite provincial support. They also ensure the fullest possible debate: the federal government would be required to mobilize public support for its proposals, and provinces would have to justify any opposition before their own legislatures and electorates. It is probable that most of the major programs now in existence would still have been developed under such a scheme; the greater bargaining power this method gives to provinces, however, suggests that their legislatures might have been able to use the need for consent to win more favourable terms from the federal government or to gain leverage in other policy domains. Commissioners are not inclined to favour consent mechanisms which are too rigid, or which unduly hinder the Parliament of Canada from exercising its legitimate rights and performing its responsibilities.

A third option is provincial opting-out, an approach with which we have had considerable experience in the past. The concept is incorporated in the new constitutional amending process. In a sense, the right to opt out of a shared-cost program has always existed; no province is constitutionally obliged to participate. Most opting-out proposals, moreover, significantly reduce the provincial costs entailed by including compensation, or "fiscal equivalence" payments, to the non-participating provinces. Thus, the Canadian Bar Association recommended that any province should be able to opt out of a program and receive compensation equivalent to the amount of money it would have received from the federal government, provided that the province agreed to provisions respecting interprovincial portability. The 1969 federal proposal also included fiscal compensation, but in the form of grants to citizens, rather than to provincial governments.

Serious objections have been raised against opting-out. There is the fear of a chequer-board Canada, for of what validity are "national standards" if they exist in some provinces but not in others? Would federal MPs be permitted to vote on programs which do not operate in their home provinces? Why should federal revenues be turned over to provincial governments that are unwilling to participate in national programs which have broad public support and are constitutional? In spite of all these contrary arguments, however, opting-out has been defended on the grounds that it introduces a high degree of flexibility into the federal system. In particular, it allows a response to the distinctiveness of Quebec, while avoiding a situation in which Quebec might be able to block a program which is considered highly desirable in other parts of the country.

The spending power has been a vital instrument of flexibility and of response to changing definitions of the national interest. Commissioners believe it should be retained, subject to a number of guidelines. First, while we believe that this power is and should be a broad one, we are also convinced that it is not unlimited. We consider the judicial distinction between the federal legislation which makes grants or gifts and that which involves direct regulation in the fields of provincial jurisdiction, though it is not fully developed, to be the appropriate one. We believe, for example, that federal



loans, tax credits or grants to post-secondary students would be constitutionally justified, but that if they were to be used to require universities to establish entrance conditions, they could be challenged as an invasion of provincial jurisdiction. We hold the opinion that it is appropriate for the Supreme Court to spell out the constitutional limits more fully as it considers future cases.

Secondly, following the Rowell-Sirois Report, we believe that in principle, the federal government should look to a shared-cost program as a last resort, rather than as a first resort. Indeed, in many cases, it will be desirable to seek to mesh federal and provincial activities under a shared-cost program. In general, however, the democratic objectives of accountability and clarity of roles are more effectively secured if a government pursues programs under its own jurisdiction.

Thirdly, use of the spending power in an area of provincial jurisdiction requires broad national consensus. A reformed Senate with stronger regional representation would provide one device to secure this end. However, since such a Senate would represent individuals, and not governments, and since it is governments which are involved in the development and administration of shared-cost programs, even a reformed Senate would not provide a sufficient solution. Provincial governments must be directly and fully consulted.

Federal-Provincial Ministerial Councils should provide an effective vehicle for consultation. Commissioners would go beyond this proposal, however, and require the Prime Minister to make every effort to obtain broad consensus of First Ministers in advance of federal legislative action. Under present arrangements, consultation almost always occurs over new programs, since it is essential to their success that provinces agree to participate. Consultation is even more necessary, however, when the federal government proposes either to alter the terms and conditions of a program or to terminate it; since provinces are already participating, it is difficult for them to respond to such changes by leaving the program. We therefore believe that there should be considerable advance notice and opportunity for debate before conditions are changed or programs are terminated. It could be standard practice, for example, to design shared-cost programs so that they operate for five-year periods, as has been done with fiscal arrangements. At the end of each five-year period, the program would be renegotiated, but neither order of government would be able to alter the conditions unilaterally within the period.

Finally, we believe that flexibility and opportunities to innovate will be enhanced to the extent that the conditions of shared-cost programs are stated in terms of goals or ends, and the federal government does not dictate specific administrative means, but leaves their determination to provincial experience and initiative.

### ***Federalism and Fiscal Restraint***

A potential source of significant tension in federal-provincial fiscal relations in the present context concerns the cutting and trimming of programs for financial reasons. Again, the problem flows from interdependence and from

the likelihood that in the foreseeable future, all governments will be anxious to restrain expenditure and to manage their finances. The efforts of one order of government to do so will inevitably affect the budgetary situations of the others.

This development can come about in several ways, even when there are no fiscal transfers involved, and when each level of government is operating in its own jurisdiction. For example, a federal tightening of unemployment-insurance provisions might generate increased demand for provincial welfare services. In turn, provinces might try to reduce their welfare burden by instituting short-term/work programs which would last just long enough for the participants to qualify for Unemployment Insurance. More generally, one government's reductions in almost any area would be likely to generate political pressures on another order to step in to fill the gap. Commissioners make no recommendations here; the problem simply calls for sensitivity.

Of more direct interest are intergovernmental transfers. As fiscal conditions have become more volatile in recent years, numerous government actions have been taken which affect the level of transfers: these include a rapid series of changes in equalization as the system tried to respond to escalating oil and gas revenues in the 1970s; the capping of the escalators for post-secondary education and health-insurance transfers in the mid-1970s; or the more recent capping of post-secondary education transfers under the "Six-and-Five" anti-inflation program.

The question which arises is whether such transfers should be in some way insulated or protected from these kinds of budgetary changes. One perspective suggests that indeed they should be. This argument is based on the need for fairness and certainty, as well as on recognition of the high degree of provincial dependence on intergovernmental grants. Provinces, it is claimed, have been induced to participate in these programs on the understanding that the federal government would continue their support. They cannot effectively plan their own budgets if the amount of transfers remains uncertain. A particularly strong argument is sometimes made that equalization payments should be shielded from federal measures to control deficits, especially in light of the constitutional commitment to sharing now found in section 36 of the Constitution Act, 1982.

Those who view the situation from the contrary perspective ask: Why should the programs which happen to be delivered through intergovernmental mechanisms be privileged in any way over other kinds of federal expenditure? True, we justify these programs by reference to national objectives and national standards, but programs fully in federal jurisdiction presumably have similar justifications. True, budgetary uncertainty makes planning difficult, but tax revenues are also inherently uncertain; indeed, coping with uncertainty is part of the problem of governing. While the federal government may have induced provincial governments to enter particular program areas by offering cost-sharing arrangements, provincial governments have often initiated the requests for federal sharing. Moreover, if intergovernmental programs are protected, then any federal restraint measures will have to be concentrated disproportionately on a limited range of unprotected programs. Thus, in 1984, with about one-fifth of federal spending taking the form of

intergovernmental transfers and another fifth covering interest on the national debt, federal restraint measures would have to be concentrated on relatively few areas of discretionary spending. If transfers to individuals are also to be considered protected, then almost 70 per cent of federal spending would be locked in, and federal flexibility would be greatly reduced.

An interesting sidelight on these intergovernmental transactions is that it has fallen to the federal government to assume responsibility for most of Canada's public sector deficit. Without the transfers, the federal deficit would be much smaller and the provincial deficits much larger. Thus, in 1982, the federal deficit, excluding intergovernmental grants, stood at \$4.7 billion, but after the grants were included, it rose to \$20.5 billion. The same thing happened at the provincial-municipal level. Before transfers were counted, provinces had a surplus of \$7.4 billion; after grants to local authorities and hospitals were included, the provinces were in deficit by \$1.6 billion. Local governments and hospitals are the massive recipients of transfers: collectively, they were in deficit by \$25 billion in 1982, based on their own revenues; after transfers from other governments, they were roughly in balance.

In light of these considerations, how might Canada retain a desirable degree of federal flexibility and accountability to Parliament, while assuring provinces of some stability for their planning, and while protecting them against rapid unexpected variations in federal spending? The simplest option would be to require the federal government to give the provinces advance warning of proposals to cut federal transfers. One year's notice before the implementation of cuts, for example, would give provinces some time to adjust their revenues and expenditures to planned changes. This scheme, however, would provide only limited protection for provinces.

A second possibility is to review federal-provincial/transfer arrangements every five years and to limit the changes that the federal government can make, between reviews, without provincial approval. Such an arrangement could, for example, allow the federal government to adjust payments in any given year by up to 5 per cent; any greater changes would require provincial consent. An appropriate formula would have to be worked out. Alternatively, the federal changes in intergovernmental transfer programs could be linked to the average level of reductions in non-transfer programs.

A number of other proposals governing the application of federal restraint have also been made. For example, social programs could be insulated from any reductions. However, since these programs represent well over 80 per cent of all intergovernmental transfers, to exempt them would severely constrain the federal government. Another possibility is to vary the amount of reductions to take account of differences in provincial levels of need; we Commissioners discuss the difficulties of such a procedure in our analysis of equalization. Finally, provinces with higher revenues could bear the brunt of reductions, and poorer provinces could be protected. We believe, however, that the equalization program, and not individual shared-cost programs, is the appropriate mechanism for dealing with revenue disparities.

Again, to achieve balance is fundamental: the federal government must have enough fiscal flexibility to control its own budget, but it should not be able to cut with impunity transfers for shared-cost programs. We believe that



to give one year's notice of changes in these programs provides inadequate protection for the provinces. Rather, we consider it best to specify in advance the limits on permissible reductions. Furthermore, apart from conditions spelled out in the enabling legislation, the federal government should leave the provinces full freedom to decide for themselves how best to adjust their own programs and administrative systems to any reductions.

Finally, Commissioners believe that the managing of restraint is likely to cause major strains in the federation in the coming years. The temptation for each order of government to pass off its fiscal problems to the other will be acute, and the political pressure on the federal government to react to provincial measures will grow. To deal with such inevitable tensions will require a high degree of common trust, open exchange of information, and resilient institutions.

## Notes

1. Calculated from Statistics Canada, *Historical Statistical Compendium*, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Ottawa: Statistics Canada, 1985), Tables 5.1, 5.2, 5.3, 5.4.
2. *Ibid.*, Tables 5.4, 5.5.
3. Canadian Tax Foundation, *The National Finances 1983-84* (Toronto: The Foundation, 1984), Table 16.2.
4. Canada, Finance Canada, *Economic Review, April 1984* (Ottawa: Minister of Supply and Services Canada, 1984), Table 54.
5. *Ibid.*, Tables 55 and 56; and Canadian Tax Foundation, *The National Finances 1983-84*, Table 3.6 for hospitals (1982 data).
6. Ontario Economic Council, *A Separate Personal Income Tax for Ontario: An Ontario Economic Council Position Paper* (Toronto: The Council, 1983), p. 130.
7. Robin W. Boadway, "Federal Provincial Transfers in Canada: A Critical Review of the Existing Arrangements", in *Fiscal Federalism*, vol. 65, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).
8. Thomas J. Courchene, *Economic Management and the Division of Powers*, vol. 67, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).
9. Canadian Tax Foundation, *The National Finances 1983-84*, Table 16.2.
10. A.W. Johnson, *Giving Greater Point and Purpose to the Federal Financing of Post-Secondary Education and Research in Canada*, a report prepared for the Secretary of State of Canada (Ottawa, 1985), p. 23.
11. Canada, Government of Canada, *Federal-Provincial Grants and the Spending Power of Parliament* (Ottawa, 1969), p. 12.
12. *Ibid.*, pp. 36-42.



## Intergovernmental Relations and the Institutions of the Federation

Commissioners have already reviewed the strengths and weaknesses of Canada's national institutions. Here we discuss more comprehensively the institutions of Canadian federalism: the division of powers, the amending formula, and the machinery of intergovernmental relations. Given the difficult policy choices with which we Canadians are confronted, how can we reform these institutions so as to facilitate effective policy making? How can these institutions better reflect the democratic values of openness, accountability and responsiveness that underlie the optimum approach to institutional change? This Commission's terms of reference asked that we respect "the spirit of the Constitution" and "assume a continuing Canadian federal structure not significantly different from its present form." Here we provide some thoughts about that spirit and suggest refinements to that structure, in light of Canada's current needs and values.

One of the most insistent messages which we Commissioners received in our hearings was that relations among federal and provincial governments appeared to be in disarray. There was simply too much conflict, too much bitterness and mistrust. Federal-provincial relations gave the impression of steady confrontations, with reporters and camera crews standing ready to dramatize the conflicts. The capacity of the country to deal with the concrete and pressing issues put forward seemed vitiated in a struggle—of more interest to the governments involved than to the citizens they represented—for position, for status, for "turf". Such conflict troubles Canadians because it diverts attention from the substance of policy and threatens to undermine confidence in our political institutions, perhaps even in the legitimacy of the constitutional order itself.

Canadians were concerned, too, about the actual or potential threats our practice of federalism holds for democratic values. As governments have more and more shared responsibility, it has become harder and harder for Canadians—and indeed for governments themselves—to determine which authorities are responsible for what areas of administration. Intergovernmental relations, a product of shared or overlapping responsibility, disproportionately involved the executive and bureaucratic levels of government. Intergovernmental consultation and agreement have removed important areas of policy from parliamentary control. Preoccupied with the intergovernmental dimension of their responsibilities, policy makers may be less inclined or less able to respond to groups whose concerns are not territorially defined. The intergovernmental process is often secretive, and issues disappear into the intergovernmental maze. As vital issues have been caught up in this process, interest groups have realized that their concerns are at stake. For this reason, they have insisted on broader access to the process, as demonstrated in the constitutional discussions of 1980–82 and in the debates on the Canada Health Act in 1983 and 1984.

The record demands, however, that these criticisms be tempered, for even in the periods of most bitter conflict, effective policy co-ordination was maintained in many areas. Moreover, the personalities of the chief partici-

pants and the weaknesses of the institutions are not the sole sources of conflict. Some features of the relationship do spur conflict: the primary cause has been genuine differences in interests, both regional and intergovernmental, differences which are, in effect, a natural outcome of regional diversity in the federation. In the consequent struggles, governments represented not only their own political interests, but also important visions of Canada and the material interests of their residents. It is unrealistic—indeed undesirable—to expect our institutions and intergovernmental arrangements to eliminate conflict. Nevertheless, we must try to ensure that they will not generate and perpetuate unnecessary conflicts based primarily on concerns for status.

Competition among governments, overlapping of functions, and duplication of services are inherent in federalism; indeed, they are one of its chief advantages. Policy is likely to be more responsive when citizens can turn to another level of authority if they find that the first does not listen to their concerns, and when governments compete for voters' allegiance. When issues are debated in intergovernmental forums, as well as in the legislatures, the full range of policy concerns and options is more likely to be canvassed. Thus, while we Canadians must seek to establish mechanisms that avoid the intensive conflicts of recent years, we must also recognize that federalism, like other elements of Canada's institutional framework, encourages competition and adversarial relationships which are seen as essential methods for enhancing the well-being of Canadians.

Finally, the very concept of accountability becomes complex in the federal context. The basis of accountability must remain the political responsibility of each government to its own residents, in 11 systems of government, rather than one. For our federal system, however, the Constitution provides an additional standard of accountability. Thus each legislature's majority, however large, will be subject to some restraints. The Canadian Charter of Rights and Freedoms limits the autonomy of governments. To the extent that governments make formal agreements, as in shared-cost programs, for instance, they have commitments to one another on the basis of contractual federalism. We should also realize that the problems that federalism poses for responsible government are only part of the challenge that the growth of the state poses for democracy. Thus we Canadians must seek to establish balance in our federal institutions. We must try to find middle ground between unregulated competition and implausible harmony, and between accountability of governments to citizens and collaboration among governments. These considerations suggest that it is important to define more clearly the "spirit of the Constitution".

## **Federalism and Constitutionalism**

Constitutionalism in our federal system derives from several sources. First, there is constitutional law as interpreted by the Supreme Court of Canada. Secondly, there is convention: long-standing evolving principles, such as that of responsible government, and unwritten practices which, by tradition, by repeated precedents, and by the fundamental commitments of leaders, have become an accepted part of our constitutional order. The remedy for

violations of convention lies chiefly in the political process, although the courts may, on occasion, intervene. In the recent Constitutional Reference case, for instance, the Supreme Court of Canada recognized and defined the convention of substantial provincial consent to constitutional amendments as an integral part of our Canadian constitutional order, though not a judicially enforceable requirement. Thirdly, there is the concept of prudence, or self-restraint, on the part of decision makers. This quality is more than the simple desire to avoid antagonizing voters: politicians ought to have in mind—and often do—the effect their actions will have on the wider social fabric; of the extent of conflict these actions are likely to engender; of the consequences for national unity; and of the co-operation required of other jurisdictions. The chief elements of the spirit of our Constitution derive from these varied sources. They help Canadians to reconcile majority rule and minority rights, the interests of Canadian society and of provincial societies, and uniformity and diversity.

The spirit of our Constitution applies to the federal government and Parliament and to the provinces. One example of its workings is the evidence of the self-restraint of majorities in the House of Commons. In a country as diverse as ours, with provinces differing widely in population and with two major linguistic communities, respect for minority interests is critical. In some circumstances, insistence on the rights of a simple majority in Parliament and in the country is a recipe for disunity. To bridge diverse interests requires leadership of an especially high order, genuine respect for minority interests, and the search for policies and goals that will unite, rather than divide, Canadians.

The Constitution has given our federal government certain broad powers to act within areas of provincial jurisdiction and even, it may be, to bring about *de facto* changes in the division of powers. The powers of reservation and disallowance, now by convention virtually “dead letters”, were once actively employed. Commissioners recommend that these powers be finally interred through an appropriate constitutional amendment.

Through the declaratory power, the federal government may declare that certain works and undertakings within a province are for the general advantage of Canada or for the advantage of two or more provinces. Though it remains available, the declaratory power has not been used in recent years. Through what is known as the “spending power”, the federal government can attach conditions to financial grants to governments, institutions and individuals or can assign the expenditure of large amounts of federal revenue to the provinces. The “Peace, Order, and good Government” clause (Constitution Act, 1867, s. 91) permits sweeping, if only temporary, federal involvement in areas that are otherwise subject to provincial jurisdiction. Each of these powers has been the subject of important controversies, and there have been proposals that they be either abolished or limited, perhaps by the courts, perhaps by some kind of mechanism for reaching provincial consent before they are used.

Commissioners believe that the declaratory power, the spending power, and the “Peace, Order, and good Government” clause are important and flexible devices for use in an uncertain world, and that the national government



should retain them. Nonetheless, although we do not recommend formal limitations on their use, we consider these powers to have such potentially sweeping consequences for federalism that they must be exercised with special restraint, generally only after extensive discussion, and only when other federal powers provide no effective means through which government can act.

The spirit of the Constitution imposes equally important constraints on our provincial governments. Just as the federal government must tread cautiously when its activities affect provincial jurisdiction, so provinces must restrain their broad powers to spend, to engage in public ownership, or to tax, all of which can impinge on federal powers and on the interests of other governments. The provinces, too, must respect minorities. They must be sure that as they stimulate economic development, they do not impose excessive costs on the citizens and governments of other jurisdictions. This Commission has proposed some means to help ensure that this principle will be practised. Provincial adherence to such norms is all the more important as their functions have grown, and as they have claimed a right to help shape national policies. They, too, must take some responsibility for the whole institutional system of which they are a part.

## **The Division of Powers and Constitutional Flexibility**

Commissioners' assessment of the institutions of federalism begins with the division of powers. Some critics have argued for a thorough rewriting of the division of powers set forth in the Constitution. Judicial interpretation and evolving practice have so shaped sections 91 and 92 of the Constitution Act, 1867 that they no longer provide a coherent guide to citizens or governments about the allocation of responsibility. The categories set out in those sections largely reflect mid-nineteenth-century attitudes towards government; they bear little relation to the functions of the state today or to the concepts and terminology of policy discussion. The areas of *de facto* concurrent federal-provincial jurisdiction have multiplied far beyond the formally designated fields of immigration, agriculture and pensions. This evolution of the division of powers, some would argue, has contributed to a Constitution that acts as a very weak disciplinarian of governments; in fact, say such critics, our Constitution has become highly permissive, offering a large number of "pegs" on which governments can hang almost any action they wish to justify.

Why not, then, modernize the division of powers to reflect more accurately the ways Canadians think about government today? There are several reasons why Commissioners do not make such a proposal. First, the Constitution, along with subsequent judicial interpretations, should serve not only as a guide to future action, but also as a record of our national past. It should force Canadians to rethink the lessons of former years. An evolving constitution reflects the movement of a complex society through time. It is not a continuous process of writing on blank slates. To rewrite *de novo* would be to erase the record of our collective experience and the lessons it contains.

Secondly, we see as a virtue the permissiveness and uncertainty of our Constitution. Our "living Constitution" gives us a great deal of flexibility in



adapting to new concerns and needs. The importance of this freedom is obvious when one considers how difficult it is to modernize and clarify the division of powers. Just to codify past judicial decisions into a statement representing the current situation would be a massive—and controversial—task. Moreover, none of the broad distinctions that one might think of to guide a fundamental revision appears easily applicable in an age of interwoven policy areas. Distinctions between social and economic policy or between national and local considerations often seem arbitrary. In everyday experience, changes in technology and communications and new patterns of thinking influence us constantly. It is not easy to make precise distinctions in our complex age.

Another reason for hesitation about comprehensive constitutional revision is that any reallocation of the full range of constitutional powers to accord with current concepts of government would probably become obsolete almost the day it was put in writing. Rather than gaining certainty and clarity, we might, instead, experience a long period of even greater uncertainty while we worked out the full meaning of new concepts and phrases. Indeed, we are now witnessing a process of this nature with respect to Canada's Charter of Rights.

The obvious increase in the number of areas of shared jurisdiction has not so blurred the division of responsibilities between governments as to make meaningless sections 91 and 92 of the Constitution Act, 1982. While "grey" areas abound, the headings of the Act do set out the different functions of each order of government. A broad set of powers, together with access to the national rostrum that Parliament provides, enables our federal government to speak for all Canadians as citizens of a national community, to express our national will, and to concern itself with relations among citizens and regions.

Our federal government lacks unlimited power to act wherever it sees fit, since it is disciplined by the Constitution. Potentially sweeping federal powers, such as "Peace, Order, and good Government" and the "Trade and Commerce" power might have curtailed much provincial activity if they had been broadly defined, but the judiciary sharply constrained them. Certainly, a much broader trade and commerce power in the U.S. Constitution has led to greater centralization. Because of the discipline imposed by the Canadian Constitution, federal representatives, in pursuing national goals, often need the co-operation of provinces, which undertake direct action in many of these domains. The division of powers, though introducing an element of complication, illustrates that the federal government has a responsibility and an orientation to the national interest quite different from the responsibilities of individual provinces.

The provinces, too, have many economic, social and cultural powers that impinge on national policy. Section 92 of the Constitution Act, 1867 gives them wide authority to provide local services and to regulate relations among individuals and groups. Moreover, the provinces possess important land and property rights. Thus provincial actions can have major effects on national policy.

As we have seen, there have been challenges to the current allocation of powers. Throughout the 1970s, various provincial governments called for an

extension of their jurisdiction in many areas; for limitations on a variety of federal discretionary powers; and for direct provincial participation in a number of fields of national policy making, especially those with major regional implications. These initiatives reflected the desire of many provinces to exercise greater control over their own economic and social development. In addition, some asserted that the voting power of central Canada and unbalanced representation in federal cabinets and governing parties led to federal policies unfair or unresponsive to the interests of the smaller provinces. These provinces therefore sought to counteract policies harmful to their interests, and demanded a voice in preventing them. Commissioners do not believe that the call for general decentralization of, or strong limitations on, federal powers is warranted. The present division of powers does not unduly hamper provinces in meeting the needs of their populations. Nevertheless, to the extent that the federal government has wielded its powers in ways unresponsive to the interests of some regions, Canadians must reform the processes and structures of the national institutions and improve intergovernmental institutional arrangements.

Representatives of the alternative view argue that the present constitutional arrangement unduly hampers the federal government's ability to pursue the national interest, and that our national government might require still greater powers. Again, this Commission does not believe that such a view is warranted: in most respects, the constitutional authority of our federal government is adequate. Provincial powers do not hamstring Ottawa's ability to respond to problems. Thus we Commissioners do not find, on the basis of our examination of the economic union and of policy management in the federal system, any compelling case either for significantly increasing centralization or for promoting decentralization. We see no merit in efforts to restore the classic model of "watertight compartments". In any event, such an enterprise would be doomed to failure. Certainly, disentanglement in specific areas might reduce confusion and the costs of decision making; generally speaking, however, overlapping of authority and *de facto* concurrence are not only inevitable, but also desirable. Shared responsibility opens up the possibility that the federal and provincial governments might compete to respond to citizens' problems. In this competition, the need to win popular support can temper the self-interest of governments. This assessment, however, does not deny the need for change and clarification of responsibility. It might well be to the advantage of Canadians to find ways to shift governmental powers back and forth in a more flexible fashion between provincial and federal governments. We recommend two possible methods of doing so.

The first method would be to amend our Constitution to permit legislative, as well as administrative, delegation of powers from one order of government to the other. Delegation of legislative powers has both critics and defenders. Its major advantage is flexibility. Responsibility for a particular matter might be transferred from one level of government to another without constitutional amendment. For any given issue, it is not necessary, however, to transfer responsibility to or from *all* provinces. This leeway makes our constitutional system even more flexible. Legislative delegation also permits *de facto*

consolidation of responsibilities for certain matters or activities which might otherwise have to be regulated under several constitutional powers by both levels of government. In addition, it offers some greater measure of certainty to private actors who, in some circumstances, might come under conflicting regulatory requirements.

Critics argue that legislative delegation would undermine the constitutional distribution of powers and promote governmental uncertainty, confusion and diminished accountability. They argue that such delegation might threaten federalism by opening the possibility of massive centralization or, alternatively, of drift towards highly decentralized confederalism. It is argued that powers, once delegated, would be impossible to recover.

Commissioners are sensitive to the existence of risks and benefits, but on balance, we consider that in practical terms, the federation would benefit from the possibility of legislative delegation. We do not, however, envisage such active-resort to this procedure that the constitutional balance would be eroded. Under the present Constitution, governments may delegate administrative responsibilities to administrative bodies established by other levels of government. Commissioners propose expansion of the power of intergovernmental delegation to allow one jurisdiction to delegate law making authority over a particular matter to another jurisdiction. The legislatures of the jurisdictions concerned should consent to such delegations in advance. These transfers of authority might be for defined periods or for periods of indefinite duration; they might take place between the federal government and one, all or a few provinces.

The second method for transfer of responsibilities is the intergovernmental accord. The concept of an accord as an agreement with special status has only recently been made part of our federal practice, and at present it has no clear legal or constitutional status. Intergovernmental agreements, contractual or informal, have a long history; such arrangements include the Tax Collection Agreements, shared-cost programs, the General Development Agreements, and the Economic and Regional Development Agreements. There have been numerous interprovincial agreements as well. They have been a useful means of combining flexibility and a greater measure of certainty about intergovernmental matters.

The term "accord" appears to go beyond such agreements. An accord and the language associated with it seem to have some of the characteristics of a treaty and to imply some form of special standing. An accord is not a constitutional amendment, but it is more than a simple administrative agreement which any government could change unilaterally because of the doctrine of parliamentary sovereignty which prohibits one administration from binding its successors. An accord is more than an agreement backed by legislation, which a legislature could repudiate. The 1985 Atlantic Accord drawn up between the federal government and Newfoundland to provide for joint management of offshore resources and the sharing of revenues argues for clarifying both law-making delegation and accords between governments. It involves a significant shift of power and responsibility to the province and to a joint board. However, the new decision-making body is to apply existing federal resource-management legislation to the extent compatible with the



⌈ Accord. Because there is no constitutional power to delegate legislative authority, both the province and the federal government must pass “mutual and parallel” legislation to implement the scheme, and thereafter each must pass any amending legislation in identical form. The Accord provides that neither government will amend the legislation or regulations implementing the Accord without the consent of the other. This restriction on parliamentary and legislative freedom is not constitutionally valid. For this reason, the parties have provided for the possibility of entrenching the Accord in the Constitution itself if the Government of Newfoundland should obtain the requisite support from other provinces.

Accords raise a number of questions for the future. Have we here a new status for certain agreements between governments that might prove more flexible than formal constitutional amendment? Could governments use such agreements to set up temporary arrangements and procedures not capable of unilateral repudiation? Could terms be specified in a more detailed manner than would be suitable in the Constitution, but with comparable stability? Would such agreements be more easily modified in light of experience, but in the meantime provide greater certainty for all concerned? And if the answer to these questions is yes, should we give accords clearer legal status and enforceability? We conclude that we should, and we recommend an amendment to the constitution to permit such agreements and to give them legal standing. Intergovernmental agreements made pursuant to the amendment could not be terminated by any government or its legislature alone. The consent of all parties to the agreement would be required. In effect, for the term of the agreement (if specified), Parliament and the legislatures involved would be constitutionally permitted to bind their successors.

## Constitutional Amendment

In the long term, amendment of the Constitution will remain an important device for adaptation of the federal system to new requirements. At the time of Confederation, Canada's Constitution contained no general procedure for amendment. In 1949, the federal government received the power to amend the Constitution in some areas that lay within federal jurisdiction, exclusive of changes affecting the division of powers, the Senate and other critical provisions. This gap in Canada's constitutional machinery has been politically embarrassing and had unfortunate practical consequences. Despite numerous attempts, however, Canadians did not acquire a general amending formula until 1982. Before that date, proposals for constitutional change always involved endless disagreement about methods of achieving them.

Now the rules are clear, if complex. Our new amending formula contains “provincialist” elements which represent the compromise required to forge constitutional agreement in 1981: it treats all provinces equally, and it denies the two largest provinces the veto that many earlier formulae had incorporated. There is no explicitly regional requirement applicable to building the requisite degree of consent. Most substantive amendments require the assent of the House of Commons, the Senate and two-thirds (that is, seven) of our

provinces, representing at least 50 per cent of the Canadian people. A few critical institutional matters, including changes to the amending formula, require unanimity. Amendments affecting some, but not all, provinces require the agreement of those involved. The most important form of protection for individual provinces is the opting-out provision: any province may decline to be bound by an amendment derogating from its powers or privileges. If an amendment affects education or other cultural matters, a province that chooses to opt out has the right to reasonable compensation.

A number of the new formula's features appear to make constitutional amendment easier to achieve: proposed amendments can now be initiated in any of 11 legislatures; amendment need no longer involve the complex "package deals" characteristic of past attempts. No province has a veto, and the Senate has only a suspensive veto. Despite these significant elements of flexibility, Commissioners do not expect frequent amendments. It remains relatively easy to construct a coalition large enough to block proposals. There is no provision for popular ratification to override the positions of governments. Most important, while opting-out may facilitate amendment even if some provinces object, we think that it will limit the frequency of change. Even if only one or two of the larger provinces opted out of any proposed amendment, the action could destroy the effect of any suggested change. More important, if provinces were to use the opting-out provision, the prospect of a "chequer-board Canada", where the operative Constitution varied from province to province, would loom large. We would expect any federal government to regard such a prospect with considerable misgiving and probably, indeed, to withhold consent if a pattern of opting out developed.

In practice, the new amending procedure may differ little from a requirement for unanimity. Constitutional amendment will probably occur only in non-controversial areas where a high degree of consensus has developed. However, Commissioners expect considerable reliance on the rich variety of other institutional devices available to Canadians; in particular, our governments are likely to use formal and informal agreements and delegation. Indeed, it is, in part, because we foresee this growing resort to these other instruments that we are led to recommend constitutional amendments to permit legislative delegation and binding intergovernmental accords. Such devices fill common substantive needs and "lower the stakes" of intergovernmental bargaining by allowing for renegotiation in light of experience.

A central element in any federal constitution is a final court of appeal to act as umpire of the system. Constitutional conflicts arise constantly. They may enter the judicial process through litigation initiated by citizens or private interests, or as a result of government actions, such as the reference procedure. Until 1949, Canada's umpire was the Judicial Committee of the Privy Council (JCPC) of the United Kingdom. Its interpretation of the British North America Act made Canada's Constitution far less centralized than the words of the Act seemed to imply. In 1949, however, the Supreme Court of Canada became our final court of appeal in constitutional matters. Its record since then demonstrates continuing sensitivity to the principles of federalism in the context of a changing society. In case after case, the Court has ensured the maintenance of a balanced federalism.

During the 1970s, heightened intergovernmental conflict greatly increased the volume and sensitivity of constitutional cases before the Supreme Court. On contentious matters such as energy, the Court's role was critical. Now, with the advent of our Charter of Rights, it may become even more so. There will be challenges to the actions of both orders of government, not only as to whether they have acted *ultra vires*, but as to whether they have violated the Charter. These considerations have led observers to suggest that the Court should be accorded a more explicit constitutional status, and that the procedures for the appointment of judges should be re-assessed in light of the court's enhanced constitutional role. We shall address these issues later in this Report.

Although judicial decisions may clarify the limits of constitutional jurisdiction within our federation, and although delegation of powers, accords and other arrangements may help to define governmental responsibilities, nevertheless federal-provincial and interprovincial relations will remain central to adaptation of the federal system. Accordingly, Commissioners turn to the structures and processes of intergovernmental relations in Canada.

## The Machinery of Intergovernmental Relations

The machinery of intergovernmental relations helps to manage the complex linkages among the governments of Canada as each level of government operates across many policy areas and deploys a wide range of governing instruments, including spending, taxing and regulating. Subject to the limits of the division of powers, and given always the potential of the Supreme Court to act as final arbiter, the activities of federal and provincial governments are interwoven in many policy fields. Constant interaction is required as leaders at each level respond to the changing demands of citizens in an evolving economic and social context. The challenge, then, is for Canadians to design intergovernmental machinery for managing this interdependence and to do so without sacrificing our other political values.

It should be clear from the previous pages that Commissioners do not intend to suggest that the ideal or the primary goal that Canadians should seek in a reformed set of intergovernmental processes is continuous harmony and the avoidance of all conflict and controversy. We should expect – and we shall continue to have – a great deal of competition within the consultative forums of the federal system. The federal government, concerned with the whole country and serving a nation-wide electorate, will differ in policy matters from provinces serving more limited constituencies. Inevitably, governments will compete to gain the credit for distributing the pleasant policies and try to pass on the blame for the painful ones. Inevitably, different provincial governments will reflect the different needs arising from their particular economic structure and the social make-up of their jurisdictions. The democratic process in the federation involves competition for public support as governments try to produce the policies their constituents demand. The challenge is to ensure that competition does not impose excessive and disproportionate costs on other jurisdictions, that it is carried out in such a way that the interests of citizens play the foremost part in shaping its



outcome, and that the credibility of the institutions of federalism is not undermined. Indeed, while co-ordination is the desired result, the process of achieving it is often competitive and adversarial.

Commissioners do not desire governments within the federation to act jointly in every undertaking, binding one another to the lowest common denominator. Such a policy would deprive federalism of one of its major virtues: the opportunity to use diversity to advantage and to reap the rewards of flexibility and experiment. Total unanimity would be a recipe for paralysis and immobility. It would also clash with the principle of Cabinet responsibility, which makes each government answerable, through its legislature, to its own electorate.

Intergovernmental relations in the federal system involve several levels of interaction. At one end of the continuum, policy making is completely independent: governments take action without consulting others or considering their interests. Under this arrangement, other jurisdictions must adjust independently. A significant portion of federal and provincial policy making takes this form. Governments are, and should be, free to act autonomously within their own jurisdiction. When their policies have a major effect on other governments, however, interdependence requires explicit attention to the interests of others.

The second level of interaction is characterized by consultation. On this level, each government recognizes the effect of its actions on other jurisdictions and the fact that all are acting in the same areas and/or in closely related areas. Here it is important to provide the means for governments to keep one another informed and to provide opportunities for persuasion, pressure and influence. In an interdependent federation, areas of common action represent a large and recently growing category. Accordingly, the institutions which this Commission proposes are designed to encourage close and continuous consultation across a wide range of policy areas. Commissioners believe that governments in a federal system must strive for "a mutual comity which never overlooks advance notice and consultation [and] always strives for accommodation. This is just a necessity for a genuine working federal system in a developed country in the late twentieth century."<sup>1</sup>

The third level of intergovernmental relations involves efforts to achieve co-ordination. Here, governments will try to develop commonly acceptable policies and objectives which they will then implement within their own jurisdiction. The co-ordination of activities can take place in several ways. These ways can range from the general search for a common economic policy framework at a First Ministers' Conference, to detailed agreements on how federal and provincial policies will mesh in a particular province, as in the Economic and Regional Development Agreements.

Finally, there is joint decision making, which requires that federal and provincial governments act together, committing themselves to particular courses of action and standards of conduct. Shared-cost arrangements take this form. It is in this context that fears arise that the accountability of responsible governments will be sacrificed to the need for intergovernmental consensus. We Commissioners share these fears, and we have taken them into account in making our suggestions for reform of intergovernmental relations.

Each one of these kinds of governmental interaction is exemplified in the vast network of relationships which have developed since the end of the Second World War, especially in the 1960s and 1970s. The “set-piece” First Ministers’ Conference (FMC) provides the most obvious example. There are also many ministerial-level meetings on a wide range of subjects and even larger numbers of joint committees of officials. In addition to meetings of all 11 governments, there are hundreds, if not thousands, of bilateral meetings, or meetings between the federal government and groups of provinces. Interprovincial conferences have come to be of significant use, both in coordinating provincial responses to federal initiatives and—with less success—in harmonizing provincial policies. In addition to all these formal meetings, myriad informal contacts are made.

There has been considerable variation in the relations between the federal government and individual provinces. Canada has created an intricate network of intergovernmental relationships through which to manage interdependence, though these arrangements are nowhere mentioned in the Constitution and have almost no legislative base. This intergovernmental “industry” has been criticized on many grounds. To some observers, it constitutes a “third order of government”, threatening to undermine the principles of parliamentary accountability. Other observers believe that the intergovernmental process introduces important biases into the consideration of public policy in Canada. They consider that the process focuses undue attention on the “second-order” questions of political status or on competition between levels of government rather than between parties, to gain credit among voters and to avoid blame. It is sometimes argued that in emphasizing the role of provincial governments, the intergovernmental process reinforces a tendency to define the regional dimensions of issues in terms of provinces, conveying the impression of homogeneity within provinces when, in fact, there are often as many differences within provincial jurisdictions as there are among them. The process also diverts attention from other problems, such as those relating to socio-economic status or gender, and reduces the opportunity for groups who represent such non-regional interests to mobilize and to secure a hearing. There is doubtless some truth in this view: the focus in intergovernmental discussions of economic policy differs from that chosen in discussions between the public and private sectors. This is an inevitable consequence of a federal system, but the difficulties should not be exaggerated. Intergovernmental discussions do take into account concerns expressed in the wider environment. When the public agenda emphasizes issues in which regional differences are slight, as in the construction of the post-war welfare state, the debates among governments can reflect that wider concern. Finally, federal or provincial Ministers and officials negotiating on specific matters frequently represent the interests of their client groups.

Another set of criticisms relates to the intergovernmental process itself. While there is considerable communication among governments, it is often sporadic and *ad hoc*. Governments naturally tend to call for consultations when it is to their political advantage; they are equally likely to ignore inconvenient calls. There has thus been no assurance that ongoing common problems will receive continuous attention. Even the issue of calling meetings,

especially First Ministers' meetings, has tended to be a matter of political debate which diverts efforts from the actual search for solutions to common problems. The public meetings, especially at the level of First Ministers, seem to put a premium on the strongest possible statements of position, rather than on a search for understanding and compromise. The process exposes differences more effectively than it contributes to their reconciliation.

In recent years, the intergovernmental process has been further hampered by the divergent expectations of participants. Provinces have tended to regard First Ministers' Conferences as opportunities to discuss the full range of federal policies and to assert an influence in national decision making. This tendency has been fostered by three developments. Provincial governments' growing strength and effectiveness permit them a claim to affect national policy and give many of them levels of expertise and knowledge equal, in certain fields, to that of the federal government. In the recent past, the weak representation in certain regions of the party in power has lent credibility to the provincial claim to represent these areas, even in national policy. Changes in the federal government's approach to managing our economy, have increased federal involvement in areas previously considered primarily provincial. Federal-provincial conflict tends to be more intense when governments are searching for new policy options in previously uncharted areas.

The federal government, on the other hand, has viewed First Ministers' Conferences on the economy as a mechanism for consultation on a wide range of issues. There have been occasional attempts at co-ordination, but it is probably fair to say that the federal government has resisted provincial suggestions to formalize a decision-making process on the basis of "executive federalism" primarily on the grounds that this would not fit well with the role of parliament in our system of responsible government. While the federal government acknowledges the helpfulness of provincial government views on national economic policy making, provinces have rarely welcomed the federal government's views on provincial policy or programs. Furthermore provincial governments have been reluctant to put forward views on how they might alter provincial policies to contribute to the resolution of fundamental country-wide problems. This imbalance in obligations at the First Ministers' table has led some observers to question what co-operative federalism really means.

Government growth has caused structural changes which have seriously affected intergovernmental relations. The role of "central agencies" and institutions, such as premiers' offices and Treasury Boards, has expanded as governments have sought means to achieve greater consistency and co-ordination in their operations. More centralized direction and attempts to establish greater fiscal and policy control over line ministries have been part of governments' efforts to identify and pursue more "global" or integrated visions of the public good. To some extent, these efforts have weakened an earlier pattern in which intergovernmental relations were mainly conducted among ministers and officials in operating departments with a specific policy mandate. Federal and provincial officials within such departments often shared common policy and professional goals, and responded to the same



groups in the population. Their common interests and activities fostered mutual trust and a sense of common purpose. At the First Ministers' level and within central agencies, the goals of political status are likely to be more prominent, and governments are likely to be less constrained by group pressure. The goal of co-ordinating policy across all fields within a single government often conflicts with management of intergovernmental co-ordination within a policy area.<sup>2</sup>

In such recent issues as that relating to the Constitution, the status of governments has also caused intergovernmental tension. Constitutional reform dominated the intergovernmental process for much of the period from 1968 to 1983; it was fuelled both by Quebec's wish for an enhanced status and by the West's desire for a new deal. Debate on the Constitution called directly into question the status and powers of government. The questions it raised were powerful and symbolic, not easily subject to the kind of "splitting-the-difference" compromises characteristic of more concrete and less emotionally charged issues. Since the purpose of the participating officials was to defend their government's vision of Confederation, there were fewer ties of common interest. The general absence from the process of well-informed interest groups meant that no one held the participants accountable or encouraged resolution of differences. In short, debate on the Constitution brought out the worst features of the intergovernmental process. While more co-operative relationships existed in many areas, battles over constitutional and energy issues tended to poison the whole range of intergovernmental relationships, turning the process into one of "good guys" versus "bad guys".

The foregoing assessment might suggest that the machinery of intergovernmental relations is so cumbersome and ineffective that it is beyond effective reform. Commissioners disagree. We must provide intergovernmental institutions to meet the need for co-ordination in several major fields where federal and provincial government actions and responsibilities overlap. Therefore the institutional arrangements which we propose are intended to consolidate the existing intergovernmental structure. Our aim is not to multiply intergovernmental bodies, but to make effective the machinery Canada already has in place. We hope to ensure that actions which may seriously affect other levels of government will be assessed in advance and will increase the openness of intergovernmental relationships, rather than introduce new constraints and limits. We also believe that it is vital to ensure reform of the overall process to make it more consistent with basic norms of political accountability and to improve public access to, and understanding of, intergovernmental relations.

Commissioners wish to encourage institutions and processes that will facilitate common trust, for without some general understanding of shared purpose, the best-designed institutions will fail. But shared purposes alone are not enough to establish positive relationships: they need to be supported by effective consultation and debate if co-ordinated results are to emerge. The constructive elements will arise from co-operation and recognition of the legitimacy of differences.

## Proposals

Commissioners therefore propose that the First Ministers' Conference (FMC) be entrenched in the Constitution. First Ministers should meet annually on a fixed date, and other sessions should be called as necessary. The First Ministers' Conference is the capstone of the intergovernmental structure.

Throughout the recent constitutional debates there was discussion concerning a regular First Ministers' Conference. The FMC has been a major goal of most provinces, and at times, the federal government endorsed their aim. At the First Ministers' Conference held at Regina in February 1985, Prime Minister Mulroney committed his government to annual meetings on the economy for the next five years. Some might object to institutionalization of this most contentious federal-provincial body, where political differences predominate. Commissioners believe, however, that official status for the FMC would acknowledge the need to arrange a satisfactory forum of interdependence, and for federal and provincial governments to co-ordinate policies and activities. To ensure openness and accountability, some FMC sessions should be held in public, though private discussions should take place as necessary. To make the meetings fixed and regular would remove one of the more contentious aspects of recent FMCs: the arguments about when and whether one should be called. To a great extent, regular Conferences will avoid the build-up of hostilities and the artificial inflation of governmental and public expectations that result from such jousting.

The central purpose of FMCs should be to provide a forum where federal and provincial leaders can discuss policy needs and explore possibilities for action of national importance in both levels of jurisdiction. The FMC would not be a legislative body, and its decisions would not be binding on governments. Rather than legislate, it would seek a common policy framework. Formal voting rules, as such, would not be necessary. Legislative follow-up to discussions in the FMC and in the other bodies Commissioners suggest would be the responsibility of governments.

Nevertheless, the FMC would need to organize its own affairs. Commissioners envisage creation of additional Ministerial Councils, a step which we propose below. The FMC could restructure the Councils as necessary, define their mandates, assign them tasks, and receive their reports. It might wish to establish a voting rule to cover decisions about the structure, composition and mandates of Ministerial Councils.

Critical to the success of any intergovernmental institution is adequate preparation. This includes extensive prior discussion of the agenda, sharing of information, and private exploration of possible areas for agreement or compromise. The FMC could create an independent secretariat to support preparatory work, perhaps by upgrading the Canadian Intergovernmental Conference Secretariat, which now provides administrative services. This move would introduce into the system a group of officials whose objective would be the success of the system itself. Conversely, it would create some difficulties. An autonomous intergovernmental bureaucracy similar to the Commission of the European Community, for example, would be counter to

Canadian norms of responsible government. Commissioners therefore recommend the use of a better-established Canadian institution: a permanent committee of senior officials like the Continuing Committee of Officials on Economic Matters. Such a committee, with members designated by the First Ministers, should be appointed to support the FMC.

Although Commissioners have rejected the option of an independent secretariat to serve the FMC directly, third parties, not tied to the day-to-day interests of governments, can often help to facilitate agreements, by providing optional perspectives and new information, and by finding solutions that participants may be too involved to see. An Advisory Panel on Intergovernmental Relations might fulfil these functions and help the public to understand federal-provincial issues. We have looked at two models: the long-established Advisory Commission on Intergovernmental Relations (ACIR) in the United States, and Australia's Advisory Commission on Intergovernmental Relations. These commissions, established by legislation, consist of representatives of the federal and state governments (and, in the United States, of municipal governments), served by a small professional staff. In each country, the Commission studies various issues, conducts research and holds conferences. Their work has made notable contributions to good intergovernmental relations.

Members of such a commission or panel could act as informal mediators to help resolve conflict among governments. The techniques of mediation, developed in settings from labour/management relations to great-power negotiations, might help to resolve intergovernmental conflict in Canada. An advisory group could ease those relations behind the scenes, and provide information and analysis both to governments and to the public. First Ministers might eventually wish to consider the creation of such a body to assist in providing some or all of the possible contributions we have noted. Commissioners would suggest, however, that this additional element be considered only after some experience has been gained with the new structures and procedures we are recommending for the FMC and Councils.

Meetings at the ministerial level now cover many areas of government policy, but they, too, suffer to some degree from their sporadic nature. With some exceptions, notably the meetings of Finance Ministers, they do not provide continuous interaction and sharing of ideas and information. Commissioners recommend strengthening these relationships as part of our larger purpose of increasing the emphasis on concrete policy problems. This shift of focus is much more likely to occur in groups created to concentrate on specific problems. We therefore propose that the First Ministers' Conference appoint a number of Councils of Ministers to serve in major functional policy areas. Again, the meetings of Ministerial Councils should be held regularly, presumably more frequently than FMCs, to encourage development of common perspectives and exchange of information, and to establish trust among the participants. Like the FMC, Ministerial Councils would be served by continuing committees of officials. This Commission does not propose to list all the Councils that might be established or that already exist in some fashion. Our purpose is to suggest a core framework of federal-provincial mechanisms that would, in a more streamlined way, support First Ministers



in their collective and individual responsibilities. Commissioners propose that three central Ministerial Councils be established in the fields of Finance, Economic Development and Social Policy, areas related to major themes developed earlier in this Report.

### ***The Council of Ministers of Finance***

The Council of Ministers of Finance (or the Conference of Finance Ministers) stands as Commissioners' prototype for the other councils. Finance Ministers and Treasurers have met regularly for many years to monitor and negotiate fiscal arrangements, to discuss economic projections, to compare notes before budgets are prepared, and to discuss macro-economic policy. Our proposal simply formalizes the existence of the ministerial Council on Finance and requires, again, that it meet more frequently. Furthermore, its importance would be enhanced by our proposals for greater federal-provincial co-ordination in the budgetary process. This Council, as we discuss in the section on fiscal arrangements, would be supported by a new federal-provincial body of tax experts, the Tax Structure Committee, to conduct research and monitor developments in taxation.

### ***The Council of Ministers Responsible for Economic Development***

As Commissioners mentioned earlier, protection of the Canadian economic union is not simply a matter of preventing the erection of barriers or of finding the right enforcement officer. Rather, successful operation of the economic union requires that Canadian governments build a common set of purposes that will lead to co-ordinated effort in all the economic development activities in which governments engage. A Ministerial Council for Economic Development would provide the principal focus for discussion of such purposes and means to achieve them.

The successful operation of Canada's economic union also requires exchange of information among governments in order to prevent, especially at an early stage, the escalation of policies that are harmful to other jurisdictions. The Council of Ministers responsible for Economic Development would therefore monitor and assess the state of our Canadian economic union. Through the Council, governments might develop "a Code of Economic Conduct", as described above. The Council would seek agreement on common objectives in economic and trade policies and would encourage mutually beneficial linkages among regions.

A vital adjunct to the Council would be a Federal-Provincial Commission on the Economic Union whose members would be named by the Council. The Commission would monitor the state of the Canadian economic union, conduct research to identify barriers and possible areas for greater harmonization, and report publicly to the Ministerial Council on these matters. It would also provide for official hearings of individuals and groups who believe that existing barriers significantly frustrate their own activities. It would investigate their complaints, weigh them against other considerations,

and report both to the public and to the Council, offering recommendations for action.

Such a body would ensure public involvement in discussions of our economic union. It would also provide an independent source of advice aimed at strengthening the economic union. Moreover, by requiring governments to justify their actions publicly, it would increase their accountability. Commissioners anticipate that it would discover many areas in which differences in licensing standards and safety regulations neither serve distinct provincial or federal public purposes nor protect the public. Many, indeed, are simply the product of tradition, inertia and lack of awareness.

### *The Council of Ministers on Social Policy*

The importance of social policy to many facets of Canadian life and the high degree of shared responsibility in the field of social policy strongly suggest the need for a Council of Ministers on Social Policy. Such a body could consider all facets of social policy, especially in the shared fields covered by the Established Programs Financing (EPF) and the Canada Assistance Plan (CAP). The recommendations on social policy set out earlier in this Report suggest a large number of reforms which will require intergovernmental consultation. Consultation with practising professionals and interested groups and individuals is particularly important in this area. Commissioners would encourage Parliamentary Committees to take a more active part in forming social policy, conducting research on the issues involved, and holding public hearings.

The FMC could establish other ministerial councils as necessary. It might, for example, appoint councils in such areas as employment training and the administration of justice. These structures would provide a framework for greater coherence in the federal-provincial system. Less structured forms of interaction would also occur automatically, in bilateral and interprovincial discussions of specific issues. Indeed, as we have noted, many such relationships already exist, and we see no reason why this process should not continue to evolve.

Throughout this Report, Commissioners have stressed the need to make governments more accountable to legislatures and voters. We have noted that the intergovernmental processes of executive federalism can sometimes undermine clear lines of accountability. We need continuous effort to minimize this tendency. Moreover, the intergovernmental process must be kept open to public view. Some of the proposals made above will assist this process. For example, the Federal-Provincial Commission on the Economic Union, in assessing complaints, will provide a public window. The proposals that the First Ministers' Conference be open, at least in part, will facilitate the same objective: governments will be accountable for their performance. If more functional and substantive discussion takes place between governments, participants should become more aware of the interests of affected groups.

This Commission, however, believes that even more could be done. Governments must be held accountable for their conduct of intergovernmental affairs. The best way to hold them accountable is through a parliamentary

or legislative committee. In recent years, the Task Force on Federal-Provincial Fiscal Arrangements (the Breau Task Force), parliamentary committees on the Constitution, and similar provincial bodies have demonstrated the value of parliamentary scrutiny of intergovernmental matters. All tempered the tendency of intergovernmental forums to focus on “who does what” with a healthy emphasis on what is to be done. Standing committees at both levels would be able to monitor these relationships more consistently. Commissioners therefore propose that Parliament and the legislatures establish permanent standing committees responsible for intergovernmental relations.

## **Interprovincial Harmonization**

So far, Commissioners have concentrated on the federal-provincial dimension of intergovernmental relations. There are many interprovincial relationships and some important interprovincial institutions. Since the early 1960s, leaders of Canada’s provincial governments have met annually in the Premiers’ Conference. These meetings at first concentrated primarily on co-ordinating approaches to issues of provincial concern. More recently their aim has been to unite provinces in their response to federal initiatives, especially in relation to fiscal and constitutional matters. On a few occasions, provinces have forged compromises among themselves in order to take up a common position. The office of Conference chairperson rotates among the premiers; the incumbent often speaks for the provinces in dealings with the federal government. Provincial agreements are likely to affect federal-provincial relations, particularly on issues where provinces share common policy interests, mainly those, like the Constitution, that relate to their status as governments. On other economic and social questions, different regional needs and interests will often divide provinces as much as they do federal and provincial governments. Provinces will often wish to deal individually with the federal government, rather than as part of a group.

Within an economic union, harmonization of policies across jurisdictions is vital.<sup>3</sup> As we have seen, differences in product standards, licensing rules for occupations, and codes of commercial law can inhibit mobility and trade among member jurisdictions. It is necessary to seek a balance between the autonomy of member-states to enact policies to suit their own conditions and the uniformity that facilitates transactions among them.

In a federal system like Canada’s, the federal government properly plays a central role in harmonization. This is why constitutional authority over interprovincial trade and commerce is federal, and why Commissioners believe that fields like competition, telecommunications and product standards should be primarily federal matters. The proposed Code of Economic Conduct is also a step toward harmonization. It is aimed at ensuring that federal and provincial economic-development activities do not erect barriers to the Canadian economic union.

There remains, however, a large domain of provincial regulatory activities derived mainly from provincial authority over property and civil rights. These activities can lead to variations in practice among provinces that inconven-



ience economic actors wishing to operate on a national plane. Where varying provincial laws create difficulties, transfer of responsibility to the centre is not the only possible response. An alternative device encourages provinces to harmonize their laws as much as possible, where this is necessary for the effective integration of the Canadian market. Much harmonization, of course, occurs spontaneously: all provinces are under similar pressures from constituents, and their policies are unlikely to vary much. As a government prepares to act in a field, it is natural for it to look first at the ways others have drafted their legislation. Innovations begun in one province can thus spread to others.

Canadians should also ask what mechanisms exist to promote more complete harmonization. The oldest such mechanism is the Uniform Law Conference of Canada, formerly the Conference of Commissioners on Uniform Law, founded in 1915. Its membership, which meets annually, includes representatives from the federal government, all the provinces and the territories. It has published more than sixty uniform acts in many fields. Twenty-four have been accepted in six or more jurisdictions, but only one has ever been adopted in all jurisdictions. There are many explanations for the modesty of this record. The Conference has a small secretariat and few research resources. Its members are all full-time officials employed elsewhere. The focus on drafting uniform laws has diverted attention from concentration on broad principles. The draft laws, developed in the common-law tradition, have met with little response in Quebec, with its Civil Code tradition. The Conference has done little to enlist outside groups in its work or to lobby for the adoption of its proposals.

A different mechanism for fostering harmonization is the formation of ministerial or official working groups. One such institution in Canada is the Council of Ministers of Education, which is intended to promote better exchange of information and development of common curricula. More narrowly focused committees have also had success. These include, for example, a federal-provincial group working on a central registry for security interests in aircraft, which was established in 1983.

Efforts at harmonization require strong pressure from outside, as when groups inconvenienced by provincial variations mobilize to promote unity. Federal and provincial law-reform commissions could exert such pressure. It would be relatively simple to extend their mandates to include responsibility for examining possibilities for interprovincial harmonization, although so far there has been little movement in this direction. Another important vehicle is professional groups with a nation-wide mandate, such as the Canadian Bar Association or the Canadian Institute of Chartered Accountants. In 1963, the Commercial Law Section of the Canadian Bar Association created a committee of experts to prepare a model Uniform Personal Property Security Act. The Committee has been influential in modernizing and harmonizing law in this area which is vital for interprovincial business transactions. At least seven provinces have passed, or are likely to pass, legislation embodying most of the features of the model law.

What are the lessons of this record of interprovincial harmonization? The evident lack of drive behind these efforts could have several meanings.

Perhaps there is already a significant degree of harmonization; perhaps existing gaps in harmonization pose relatively few costs; perhaps there is a great unfulfilled need for new institutions. Commissioners incline to the first two explanations. Overall, however, we believe that greater harmonization would maximize the advantages of the economic union. We do not recommend creation of additional institutional structures: the institutions we have described already should prove ample. Thus, the Council of Ministers for Economic Development will undoubtedly address interprovincial harmonization, as will the Federal-Provincial Commission on the Economic Union. The latter provides an opportunity for private actors to press for improved harmonization in particular areas. Similarly, the other ministerial councils can commission working groups to examine harmonization. The Premiers' Conference could look at the issue, delegating specific tasks to ministers or officials. Thus, mechanisms exist to respond to needs as they develop.

## Conclusions

Commissioners have designed these proposals to rationalize the structure of intergovernmental relations. We wish to facilitate management of interdependence in the federal system, for Canadians cannot recreate the classic watertight compartments of federalism. We have made a number of suggestions for disentangling federal and provincial activities, such as a clearer division of labour in regional development policy and replacement of the Canada Assistance Plan by a federally operated income-supplementation scheme to which provinces would add their own programs. We believe that as the Councils of Ministers look at other programs, they can accomplish much more in terms of understanding and clarifying which government should implement which programs.

Commissioners have recommended some constitutional changes and have emphasized the need for more flexible procedures to promote delegation and intergovernmental agreements. There will remain many intergovernmental relationships arising from shared responsibilities and the need to adjust policy to changing needs. We Canadians can gain much by rationalizing the structure that already exists and by providing more effective forums for consultation and co-ordination. Commissioners' proposals should provide for more consultation and for mechanisms to ensure that this consultation is open to public scrutiny.

We Commissioners urge Canadians to consider our proposals for reform of intergovernmental arrangements in relation to our other recommendations for institutional change, especially those pertaining to the reform of national institutions. The federal government, in the conduct of its responsibilities, must possess the capacity to represent and accommodate the interests of all regions: intergovernmental relations are not a substitute for full regional representation at the centre. Similarly, enhanced regional representation in national institutions is not a substitute for intergovernmental relations. The existence of a formal division of powers and of two strong orders of government means that co-ordination is essential, no matter how regional representation in national institutions is achieved. Thus we see reform of the

centre and reform of the institutions of the federation not as alternatives, but as complementary: Canada needs not merely one or the other, but both, for different purposes.

Reform of national institutions along the lines Commissioners have proposed should change the character and dynamics of federal-provincial relations. Stronger representation from all provinces in national institutions will ensure that regional concerns will be represented in caucus and Cabinet. Moreover, through its Members of Parliament, a more regionally representative government should be able to communicate effectively with citizens in each province, in developing support for programs and initiatives and in responding to local needs. Such a government will be able to provide more effective leadership and to counter the claim that the provincial governments are Canadians' only legitimate representatives of local interests. One consequence of the present regionally imbalanced structure of representation in national institutions has been the almost impossible burden it placed on the intergovernmental process. A lesson of the recent past is that political integration comprises too large a task to be discharged by a single set of institutions. A healthy federal system is one in which there are multiple links binding together federal and provincial levels. These links exist, not just between governments, but in political parties, in bureaucracies, in the media, in associations of all kinds and, ultimately, in the minds of citizens.

Commissioners do not wish to conclude this discussion of intergovernmental relations without noting the profound importance of personal associations in social, commercial and family life that link Canadians in different parts of the country. In a federal society, the informal ties of citizens to one another, as well as to the state, are important means of moderating or restraining excesses. Communication across regions moderates tendencies to excessive differentiation; it also serves as the foundation for the tolerance of diversity which, in its turn, provides a healthy check on the unifying authority of the national government. Ultimately it is citizens who must discipline the conflicts among their governments.

## Notes

1. J.A. Corry, "The Uses of a Constitution", in Law Society of Upper Canada, *Special Lectures 1978, The Constitution* (Toronto, 1978).
2. J. Stefan Dupré, "Reflections on the Workability of Executive Federalism", in *Intergovernmental Relations*, vol. 63, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).
3. Ronald C.C. Cuming, "Harmonization of Law in Canada: An Overview", in *Perspectives on the Harmonization of Law in Canada*, vol. 55, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).





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# Citizens, Communities and the Federal State

## Introduction: The Charter and Living Constitutionalism

The Canadian Charter of Rights and Freedoms and other provisions of the Constitution Act, 1982 involve the citizens and communities of Canada more fully in the constitutional order than they have previously been involved. Provisions of the Charter and the manner in which they are applied and interpreted by courts, legislatures and Canadians themselves will, in the years ahead, significantly alter relationships between our citizens and their governments. Canadians will take some time to adjust to the Charter. Commissioners' purpose in examining the Charter, therefore, is to make more widely known some of its possible implications. We wish to promote greater understanding and consideration of the problems and opportunities that arise from the Charter and in so doing, perhaps to assist in the process of adjustment. In this section of our Report, therefore, we Commissioners examine some of the ways in which we believe the Charter will affect Canadian politics and society in the future.

The Constitution Act, 1982 was the culmination of two years of intense negotiation and public discussion involving federal and provincial governments and many interested groups and persons across Canada. It was adopted after four years of almost continuous discussion, six years of prolonged crisis of national unity, fourteen years of sustained efforts to entrench the fundamental rights of citizens in the Constitution, and more than fifty years of search for an all-Canadian formula for constitutional amendment. When it emerged, the Constitution Act, 1982 was the product of this process: a compromise document reflecting both principle and pragmatism. It also signalled the beginning of a new era of Canadian constitutional history.

All the key actors in the constitutional reform process had a hand in shaping the Constitution Act, 1982. The signatures on the final accord were



those of the First Ministers or their delegate. Parliament played a significant role in formulating the resolution discussed by the First Ministers. The people of Canada participated both through the public hearings of the Special Joint Committee of Parliament and through intense lobbying efforts at various stages of the Constitution Act's genesis. The Supreme Court of Canada's important constitutional decision of September 1981 rekindled discussions between the federal and provincial governments.

The Constitution Act, 1982, represents a constitutional reform package. It is impossible to understand or explain each provision without reference to the Act as a whole. A comprehensive procedure for amending the Constitution of Canada effectively crowns the achievement of Canadian sovereignty over our domestic Constitution. In addition, the Constitution Act, 1982 has added a Charter of Rights and Freedoms to the basic constitutional law of Canada.

New institutions may be created and constitutions written or amended in relatively short periods of time. Once in place however, the institutional and constitutional framework profoundly affects the manner in which future public issues emerge, as well as the way in which they are resolved. The words of every constitution betray the era in which they were written, and the Charter of Rights and Freedoms provides no exception. Our Charter was enacted in 1982. It therefore reflects many of the concerns of the social movements of the 1970s, as well as that decade's intense concern with national unity. In the matter of equality rights, for example, the Charter differs markedly from the Canadian Bill of Rights legislated 22 years earlier. Moreover, we cannot understand the Charter's provisions on language and personal mobility rights without reference to political events of the 1970s.

Just as the approach to human rights has changed significantly over the past few decades, it will undoubtedly change in the future. Shifts in the balance between individual rights and the interests of the community as a whole, new understandings of the causes of discrimination and the ways in which it operates, and new concerns about equality will come to our attention. As societies evolve, their composition, needs and aspirations change. As a society grows and changes, so too does its understanding of the need to protect human rights and of what these rights may entail. The Charter will help to shape this evolutionary process.

How does an entrenched charter or bill of rights interact with this process? An entrenched charter provides at least a minimum guarantee and secure base of citizens' rights, but it should also adapt to meet new social conditions and challenges. The balance is not unlike that required in any constitution that aspires to survive periods of tumultuous change. A number of provisions in the Canadian Charter of Rights and Freedoms point to the need to develop a Charter jurisprudence that is sensitive to such a balance. The first section of the Charter states clearly that the rights and freedoms it guarantees are subject "only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society." How the courts balance the rights guaranteed by the Charter with the needs of society will help to determine how the Charter contributes to the development of our "living" Constitution. The Constitution Act, 1982 itself contains certain principles that are fundamental to this process of development.

## The Charter and Parliamentary Supremacy

The Constitution Act, 1982 declared for the first time that the Constitution “is the supreme law of Canada and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.”<sup>1</sup> As part of the Act, the Charter of Rights and Freedoms is the supreme law of the land. This guaranteed constitutional protection of rights and freedoms supports Commissioners’ view that the Charter is a new pillar of the Canadian constitutional order. Its arrival has especially important implications for the tradition of parliamentary supremacy in Canada. Legislation of Parliament and of the provincial legislative assemblies must conform with the Constitution, including the Charter.

The new supremacy of constitutional law has implications for Canada’s institutional framework, as it has the potential to affect historic relationships between legislatures and the judiciary, as well as between citizens and their governments. Examination of the Charter as a pillar of the constitutional order must take into account the powers and authority of the courts in protecting the rights and freedoms guaranteed in the Charter because the courts must determine inconsistencies between the Constitution of Canada and legislation. The Charter reinforces the courts’ general responsibility for this judicial review by assuring court access to anyone whose rights or freedoms guaranteed by the Charter have been infringed or denied. The courts also assume a vital role in determining the forms of compensation or redress that any such person may receive: the Charter provides that courts may order “such remedy as [they consider] appropriate and just in the circumstances.”<sup>2</sup>

Two other significant provisions provide further insight into the role that may be expected of courts under the Charter and illustrate the subtleties which pervade the new supremacy of constitutional law in Canada. Section 1, the “reasonable limitations” clause, and section 33, the “general override” provision, contain limitations on the rights and freedoms guaranteed by the Charter. These two provisions indicate the sensitive constitutional balance between courts and legislatures.

The general override provision enables Parliament or the legislature of a province to pass laws that are inconsistent with some, but not all, of the Charter’s guarantees. It was included in the Charter at the insistence of provinces concerned about changes in the relative power of legislatures and courts. The major concern was that the entrenchment of rights would detract from the principle of legislative supremacy. The override provision retains some aspects of that supremacy.

Designated pieces of legislation may operate despite the existence of Charter protection for the fundamental freedoms, including freedom of conscience, of opinion and expression, of peaceful assembly and association (s. 2), legal rights (ss. 7–14), and equality rights (s. 15). However, to give effect to a legislative override of any of the Charter’s guarantees, Parliament or the legislative assembly must expressly declare that an Act will operate notwithstanding a constitutional guarantee included in section 2 or sections 7 to 15. Such an express declaration will have effect for a period of up to five

years, at which time it may be extended by the legislative body. This ensures that at least once every five years the legislating body will reconsider the specific use of the override. In such cases, parliamentary debate will provide the primary forum for scrutinizing the use of the general override power and for ensuring that its use is consistent with appropriate standards of responsible administration.

Commissioners are anxious that the Charter's general override provision should contribute to public awareness of legislation limiting the constitutional rights of citizens in Canada. In our view, overriding legislation should include a declaration of intent to legislate, notwithstanding a provision of the Charter, and should include not only reference to the specific rights being overridden, but also an explicit indication of the purpose of such legislative action. Such a statement of purpose would help to establish the scope of limitations and could also be referred to in discussions on whether to extend an override after the five-year period.

Shortly after Queen Elizabeth II proclaimed the Constitution Act in April 1982, Quebec's National Assembly passed legislation exempting Quebec laws passed prior to the Charter from sections 2 and 7 to 15 of the Charter. Quebec legislation that post-dates the Charter includes an express declaration of the non-applicability of these sections of the Charter. Although the National Assembly took these actions to reinforce the Quebec government's general repudiation of the Constitution Act, a legal challenge arising from the Quebec measure presents the Supreme Court of Canada with an opportunity to establish important rules about the use of the general override provision and the obligation of governments to adopt a specified form and content for invoking this clause.

In addition to its basic significance for parliamentary supremacy, the general override clause will have important consequences for the interaction of guarantees of rights and Canadian federalism. Since the national and provincial governments are able to enact the general override power in certain circumstances, wide variations among provincial governments' policies respecting fundamental, legal, and egalitarian rights in Canada are permitted. Variations in citizens' rights across the country are a possible consequence. The degree of variation which emerges will depend, in part, on the characterization of the right in jurisdictional terms. For example, if the courts decide that many of the fundamental freedoms, such as freedom of expression or legal rights, belong within federal jurisdiction, extensive variation is unlikely. In such instances a provincial override would obviously not apply, and courts could rule invalid provincial laws violating these rights, on the basis that the provincial government acted beyond the scope of its legislative authority under the Constitution Act. In areas within provincial jurisdiction, however, variation may be quite profound.

The use of the override by the national government would not result in rights variations among Canadians, but would of course take precedence over the specific right or rights with which the legislation is in conflict.

In Commissioners' view, the existence of the general override clause enables the courts to enforce more strictly the Charter guarantees of fundamental freedoms (s. 2), legal rights (ss. 7-14), and equality rights



(s. 15). Knowing that governments have recourse to a legislative override power if they believe the judicial tests are particularly inappropriate, courts should be able to establish very stringent tests for otherwise limiting fundamental, legal and egalitarian rights through the reasonable limitations provision of section 1 of the Charter.

In addition, the inclusion of the general override clause suggests to Commissioners that the drafters intended to provide few other opportunities for limiting the Charter's guarantees. This conclusion is supported by an examination of section 1, the second general authority for limiting the Charter's guarantees. Section 1 of the Charter has been called the "restrictive" clause, the "general limitations" clause or the "reasonable limits" clause. It applies to all the rights and freedoms guaranteed in the Charter. This provision makes explicit what in many constitutions is merely implicit: that no right is absolute. Circumstances may arise when some rights have to be balanced with other rights; there must be a balance, for example, between freedom of speech and protection of the reputation or privacy of individuals, and between the rights of individuals and the interests of the community. Nonetheless, conditions under which limitations on the rights guaranteed in the Charter can be imposed are stringent.

The section 1 provision makes clear that the rights and freedoms set out in the Charter are "subject only to such reasonable limits, prescribed by law, as can be demonstrably justified in a free and democratic society." It is for the courts to determine whether these conditions have been met in any particular circumstance. Early court judgements indicate that the onus of proof for meeting these conditions will fall on those who seek to limit rights and freedoms, rather than on those who claim that their rights and freedoms have been infringed or denied. Already the courts have indicated that they will not be satisfied by legislatures simply declaring that they deem an action to be reasonable and justified.

Changes to the wording of section 1 throughout the constitutional drafting process had the effect of making it more difficult to justify limitations on Charter rights. Initial drafts had provided that the Charter's guarantees were "subject only to such reasonable limits as are generally accepted in a free and democratic society with a parliamentary system of government." The accepted stronger wording that subsequently became the basis of the Constitution Act, 1982 required that limits be "prescribed by law" and be "demonstrably justified in a free and democratic society." These more stringent terms suggest standards of justification that will not be met through simple parliamentary consensus or executive decision.

Section 1 has the potential to affect profoundly the judicial process in Canada. In effect, this clause requires courts to determine whether legislative actions are justified and reasonable in a free and democratic society. Given the nature of the judicial process, courts can make such assessments only on a case-by-case basis. As noted above, however, the courts have already begun to establish their general approach. They appear to have adopted tests to ensure not only that the objective of proposed limitations is justified, but that the means of achieving it are also acceptable. In Commissioners' view, section 1 is meant to ensure that limits imposed on the rights and freedoms guaranteed in

the Charter are not only reasonable, prescribed by law, and demonstrably justified, but also constrain rights as little as possible in order for them to achieve their objectives. These criteria restrict legislatures and emphasize once again that legislative enactments and government practices must be consistent with the guaranteed rights and freedoms set out in the Charter.

Commissioners believe that the Charter marks a significant change in Canadian constitutional law and entails major consequences for the tradition of parliamentary supremacy. The Charter has enshrined the fundamental rights and freedoms of citizens in their relations with governments. Henceforth, provisions of the Charter interpreted by the courts will constrain government activities. The extent to which the Charter will directly affect Canadian society will be determined by the scope of the Charter's applicability, an issue also addressed in the Constitution Act, 1982.

The "applications section" of the Charter indicates that it applies:

*(a) to the Parliament and government of Canada in respect of all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories; and*

*(b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province.<sup>3</sup>*

The meaning of "Parliament" is relatively straightforward. The term "government" is much less precise and could be interpreted in a number of different ways. For example, government could encompass only the legislation, regulations and administration of Parliament and the legislative assemblies; more likely, it could also extend to Crown corporations, regulatory agencies and the judiciary. It could also be interpreted to include agencies and organizations that receive their funds from governments. It could even incorporate the contractual relationships of governments. While it seems clear that the drafters did not intend the Charter to apply to all aspects of private activity, there is a sizeable "grey area" where it is difficult to determine whether particular actions are "governmental", especially today, when governments act through a wide range of instruments and mechanisms.

The existence of a range of other plausible possibilities reflects the complex and pervasive interdependence of state, society and the economy noted throughout this Report. To define the extent of the term "government" is likely to be one of the most complex exercises in Charter interpretation. There is probably no one "correct" interpretation, but already there is a sizable literature offering various definitions and approaches.

The Supreme Court of Canada has attempted to come to terms with the meaning and scope of "government" in a number of past decisions. These approaches may usefully inform its definition of the term in reference to the Charter. No one seriously questions that the activities of a delegate of Parliament or of a legislative assembly will be covered by the Charter. With respect to the Charter, lower courts have upheld the general rule governing delegated authority: subordinates cannot do what their principals cannot do.<sup>4</sup> Similarly, the Supreme Court of Canada recently held that the term "government" includes regulation-making activities of various boards and

agencies, where these regulations are made subject to the approval of government.<sup>5</sup>

Other court decisions have distinguished between the public and private nature of an activity to determine whether that activity is rightfully considered a part of government.<sup>6</sup> By adopting such an approach, the court was able to conclude that a Crown corporation may be public in some aspects of its activities and private in others. This approach seems to Commissioners a flexible means of ensuring that the Charter has effect in the grey areas where public authority is exercised, as well as in the more visible legislative forums.

Commissioners believe that courts should take a flexible approach in determining whether an activity is governmental in nature, focusing in each case on the purpose of the specific actions in question. There are no firm rules to determine when private action becomes public action or vice versa. A “government-function test” would undoubtedly include within “government” such legislating bodies as municipal governments and school boards and such regulatory bodies as the Canadian Transport Commission and the Canadian Radio-television and Telecommunications Commission. It would not automatically cover the corporate and commercial activities of Crown corporations.

To determine when an actor is performing a public function is only part of the difficulty of defining the scope of government. There remains the matter of determining the amount of government involvement permissible in an activity before that activity becomes governmental—and thus subject to the Charter—rather than private. For example, if an organization of private interests receives funding from the government, should it be subject to the provisions of the Charter? Similarly, if an organization has a government contract to perform certain services, is that organization bound by the Charter, at least to the extent of its performance responsibilities under contract?

In Commissioners’ opinion, infringement of rights may occur at the periphery of government involvement as easily and as often as in the more visible legislative process. A broad application would be a recognition that indirect governmental action may be as restrictive of individual rights as direct governmental action.<sup>7</sup>

Regardless of how courts interpret “government” in the context of section 32 of the Charter, Parliament and the legislative assemblies can use their authority as granting bodies and contractors to ensure that private organizations receiving public monies comply with the spirit of the Charter. Such compliance can be a component or condition of the funding or contract agreement. Using the approach known as “contract compliance”, for example, a government can insist that firms doing business with it comply with specified hiring and personnel practices that conform to the spirit of the Charter. In such an instance, the firm would be complying with government regulations or policy and not with the Charter *per se*, and the government would have to establish appropriate enforcement mechanisms. The use of such compliance regulations could extend the spirit of the Charter and its guarantees to a wide range of activities.



## Notes

1. Constitution Act, 1982, s. 52(1).
2. *Ibid.*, s. 24(1).
3. *Ibid.*, s. 32(1).
4. *McCutcheon v. City of Toronto* (1983), 147 D.L.R. (3d) 193, at 203.
5. *A.-G. Quebec v. Blaikie* (1981), 123 D.L.R. (3d) 15.
6. *Berardinelli v. Ontario Housing Corporation* (1978), 8 C.P.C. 100.
7. For further discussion see Mary Eberts, "The Equality Provisions of the Canadian Charter of Rights and Freedoms and Government Institutions", in *The Courts and the Charter*, vol. 58, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).

## The Charter and Civil Liberties

The Charter enshrines in the Canadian Constitution several categories of rights and freedoms which can be divided into two broad groups: the traditional civil liberties of democracies and the rights concerned with problems of cohesion in the Canadian political community.

The first group includes four classes of rights enunciated in the Charter:

- Fundamental freedoms (s. 2) of conscience, religion, thought, belief, opinion, expression, association, peaceable assembly and freedom of the press
- Democratic rights (ss. 3–5) to vote and run for office and the guarantee of regular elections
- Legal rights (ss. 7–14) including, among others, the right to life, liberty and security of the person; the right to be secure against unreasonable search and seizure; the right not to be arbitrarily detained or imprisoned; the rights to be told promptly of reasons for arrest, to retain counsel, and not to be denied reasonable bail without just cause; the right to trial by jury, except in specified instances; and protection from double jeopardy
- Equality rights (s. 15) prohibiting discrimination, including discrimination based on race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability.

In the traditional view, this group of rights is sometimes referred to as “negative freedoms”: they protect and secure the freedom of individual citizens by limiting the power of government. There is, however, a major departure from this approach. The affirmative action provision accompanying equality rights permits governments to pursue programs to ameliorate the conditions of disadvantaged individuals or groups, even if these programs may violate the equality rights of others. We shall return to affirmative action below.

The “negative freedoms” approach was the dominant philosophy in Canadian thought on human rights before the 1970s. It gained particular prominence in the post-Second World War period and shaped the 1960 Bill of Rights. It was the main theme in most general and theoretical discussions of civil liberties. Attention focused above all on protecting the rights of citizens by seeking limitations on the use of discretionary power by the ever-expanding administrative state.

Since the 1920s, pockets of support for more stringent controls on government powers have developed across Canada. For example, the 1933 Regina Manifesto of the newly created Co-operative Commonwealth Federation (CCF) made a strong call for human rights protections against what it considered excessive police powers in specific sections of the Criminal Code and unjust procedures under the Immigration Act. The CCF called, also, for anti-discrimination legislation and affirmation of a Canadian commitment to the fundamental freedoms of speech, of association and of the press. In 1945, a CCF Member of Parliament introduced in the House of Commons the first motion proposing a constitutional bill of rights. It was the beginning of a long campaign to have a bill of rights included in the Constitution, with

guarantees for minority rights, equality rights, civil and religious liberty, freedom of speech, and freedom of assembly. In 1947, the provincial CCF government in Saskatchewan introduced the first comprehensive human rights legislation in Canada.

Parallel to this activity, during the Depression and the period of the Second World War, various bar associations across Canada expressed concern about violations of basic civil liberties. They were concerned primarily with violations of the so-called “economic rights”: the right to choose the place and type of one’s employment; to buy and sell available goods in the open market; to fix, or bargain for, prices; to import and export; to enter into or expand business; to be free of price control; and to lease and to terminate leases.<sup>1</sup> In 1943, the Canadian Bar Association established a Civil Liberties Section which prepared annual reports on various problems relating to civil liberties during the 1940s and began to consider a proposal for a Bill of Rights as the decade closed.

Public concern over the abuse of citizens’ rights by government broadened with two events in the 1940s: the wartime treatment of Japanese Canadians and the secret conduct of spy trials. Japanese Canadians and other Orientals had experienced discrimination in Canada before the war, but after hostilities erupted with Japan in 1941, the Government of Canada, using authority under the War Measures Act, obliged Japanese Canadians living along the Pacific coast to surrender their lands, homes and property, and forced them to move to internment camps away from the coastal area. Later the federal government relocated many to other parts of Canada. Relocation programs lagged, and in 1945 the federal government announced that those who did not want to relocate could be voluntarily “repatriated” to Japan once such action became possible. As it became apparent that the decision to repatriate was not always “voluntary”, and that it would apply to naturalized and Canadian-born citizens of Japanese ancestry, public support for the Japanese Canadians and outrage over the repatriation scheme led the federal government to rescind the order in 1947. The wartime treatment of Japanese Canadians has become a deep scar on Canada’s civil rights record.

Secret orders-in-council and spy trials associated with the Igor Gouzenko affair in 1945 and 1946 also contributed to popular concern for the better protection of civil liberties and legal rights and provoked sharp criticism of the government’s conduct. Using powers granted under the National Emergency Transitional Powers Act, the Minister of Justice was empowered to detain “in such place and under such conditions as he may from time to time determine” anyone whom he suspected of being likely to communicate secret information to a foreign agent. A number of arrests were made. The government did not lay charges at the time of arrest, held many of those arrested incommunicado, and did not advise them of their legal rights. Subsequently, a Royal Commission investigation, conducted *in camera* by two justices of the Supreme Court of Canada, led to charges against many of those arrested. When the public learned of the extraordinary nature of the procedures followed, the government was severely criticized. The Civil Liberties Section of the Canadian Bar Association argued that if Canadians tolerated such violations of basic civil liberties in peacetime, then “we [were]



... in grave danger of having substituted for the rule of law ... the alien principles of the Totalitarian State.”<sup>2</sup>

These two events contributed to growing concern about the protection of civil liberties in Canada, which culminated in the 1960 Bill of Rights. Although the War Measures Act authorized both events, the 1960 Bill did not curb the powers available to the Attorney General under that Act, except by requiring that Parliament debate any proclamation of the Act. The Charter of Rights and Freedoms makes no mention of the War Measures Act, though the courts are able to determine whether or not, in curtailing a guaranteed right or freedom, a proclamation of the Act meets the reasonable limitation test set out in section 1.

Support for more protection against the abuse of governmental authority grew during the 1950s also, as a consequence of events in Quebec. The courts determined that various pieces of Quebec legislation, directed primarily against activities of the Jehovah's Witnesses and the Communist Party of Canada interfered with such basic freedoms as freedom of religion, of assembly, and of speech. Moreover, in the much publicized case of *Roncarelli v. Duplessis*,<sup>3</sup> the Supreme Court of Canada determined that Premier Maurice Duplessis, acting in his capacity as Attorney General, had exceeded the authority of his office in violation of the fundamental constitutional principle of the rule of law.

Increasing awareness of the need to protect fundamental human rights was not unique to Canada during the post-Second World War period. The United Nations, formed at the end of the war, took steps to outline a model of human rights guarantees in the 1948 Universal Declaration of Human Rights and in a number of later conventions. Some of the momentum for a Canadian bill of rights and some of the ideas about what it should contain, were the product of a post-1945, world-wide, human rights movement and of Canada's desire to be an international leader in this field, as in other areas of international affairs. In 1950, the Special Committee of the Senate on Human Rights and Fundamental Freedoms (the Roebuck Committee) recommended that Canada adopt a bill of rights modelled closely on the United Nations Declaration.

After the Second World War, Canadians were redefining the basic symbols of the Canadian state in light of our continuing evolution from colony to nation. During debate on the Citizenship Act in 1946, for example, one MP noted that even if a bill of rights did no more than make explicit the traditions of liberty in parliamentary systems, it would be a symbol for all Canadians, and especially for new Canadians, of the norms and values of our country. An increasingly heterogeneous and ethnically diverse population no longer appeared able to rely on unwritten protections of civil liberties: a written code was needed.

Thus, when Parliament agreed to the Bill of Rights in 1960, the legislation reflected an idea whose time, in Canada, had come. The “negative freedoms” approach to civil liberties shaped the Bill, which guaranteed to citizens freedom from various forms of state action. The first two sections of this bill contained most of the guarantees of rights.

The first section established the continuity of its content with the existing practices and traditions in Canada:

*It is hereby recognized and declared that in Canada there have existed and shall continue to exist . . . the following human rights and fundamental freedoms.<sup>4</sup>*

This section included equality guarantees prohibiting discrimination based on race, national origin, colour, religion or sex. The guarantees, limited to “equality before the law and the protection of the law”,<sup>5</sup> were entirely consistent with the “negative freedoms” approach of this Bill, but they would seem inadequate to a later generation concerned as much with substantive equality as with procedural guarantees. Nonetheless, the Bill reflected the major equality concerns of its own day.

The second section of the Bill outlined guarantees of legal rights. An express declaration of Parliament could override these rights, but in the absence of such express declarations, the rights and freedoms outlined in the section would prevail. The protection of civil liberties under the Bill of Rights disappointed civil libertarians. With the major exception of the Drybones decision<sup>6</sup> in 1970, the Supreme Court of Canada was unwilling to elevate the Bill of Rights to a special constitutional status. As Supreme Court Justice Bora Laskin said in 1972:

*. . . compelling reasons ought to be advanced to justify the Court . . . [employing] a statutory (as contrasted with a constitutional) jurisdiction to deny operative effect to a substantive measure duly enacted by a Parliament constitutionally competent to do so, and exercising its powers in accordance with the tenets of responsible government, which underlie the discharge of legislative authority under the British North America Act, 1867.<sup>7</sup>*

Even as the 1960 bill was being legislated, critics noted a number of weaknesses. The bill would apply only to matters of federal jurisdiction; even in the federal sphere, it had the status only of simple legislation and was not in any sense an entrenched or an overriding document. It explicitly permitted Parliament to legislate, notwithstanding its provisions. Some observers also foresaw major developments in human rights that would render the Bill of Rights inadequate almost immediately. In particular, some Canadians had begun to think that negative freedoms insufficiently guaranteed the rights of citizens. To limit the abuse of state power was necessary and desirable in a Bill of Rights; but it was necessary, also, to provide for means by which government could actively intervene on behalf of the rights of citizens and secure conditions which would allow all individuals to enjoy their rights. These views became increasingly popular, especially among members and activists in the civil rights movements of the 1960s.

The American civil rights movements of those years focused first on the rights of American Blacks, but as the movement developed, its message of equality was adapted to the interests of many other groups including women, the handicapped, young and old people, homosexuals, lesbians and others. Supporters of most of these movements wanted more than negative rights and freedoms. They demanded that government actively intervene to dismantle the obstacles to equality.

The Charter of Rights and Freedoms has moved Canada in this activist direction. While it continues to stress the traditional negative freedoms, it encourages governments to pursue greater equality for Canadians. For example, the guarantees of equality rights in the Charter enable governments to combat the underlying causes of discrimination more directly. The drafters of the Charter recognized that social and economic conditions can prevent enjoyment of equality rights; they believed that the freedom and rights of citizens require positive interventions of government, as well as the traditional negative freedoms.

The equality rights in the Charter (s. 15) expand on earlier equality provisions in two obvious ways. The provisions reflect a broad concern with the social and economic origins of inequality. The bases of discrimination specifically prohibited in the Charter – race, national or ethnic origin, colour, religion, sex, age or mental or physical disability – are not exhaustive; there is also a general guarantee of individual equality. Moreover, the guarantees of the Charter add “equality under the law” and “equal benefit of the law” to the equality categories previously found in the Bill of Rights. The equality rights guarantees are perhaps the most dramatic example of changed thinking on fundamental human rights since 1960, but similar patterns of change are also found in the other civil liberties of the Charter. This is true, for example, of the legal rights provisions, contained in sections 7 to 14.

Section 7 of the Charter, which begins with a general statement of legal rights, and which acts as an umbrella provision for the detailed sections that follow it, states that:

*Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.*

Like other provisions of the Charter, this section deals, in constitutional terms, with relations between citizen and state. By setting out broad rights to “life, liberty and security of the person”, the Charter underlines a fundamental value of Canadian society. The addition of “the right not to be deprived thereof except in accordance with the principles of fundamental justice” addresses vital issues of particular significance to criminal procedure. The phrase “principles of fundamental justice”, which appears both in section 2 (e) of the Canadian Bill of Rights, and in the Charter, is designed to safeguard the right to a fair hearing, to notice of proposed charges, to present one’s case before an impartial tribunal, and to cross examination. The drafters believed that a free and open court system based on adversarial testing of propositions and evidence designed to arrive at the truth is central to a free and democratic society. Such a system is an attempt to restrict possibilities for arbitrary action by the state.

In Canada, criminal law is the legislative responsibility of the federal government; criminal law is largely found in the federally-enacted Criminal Code of Canada. The provinces are responsible generally for the administration of justice, including criminal justice, within their own borders. The courts supervise the criminal-justice system to ensure its proper functioning, and impose rules for this purpose. The best known of these, the Judges’ Rules,



contain conditions laid down by the British judiciary for procedures to be followed by police forces when taking statements from suspects.

The Canadian Bill of Rights continued the process of codifying both judge-made or "common" law and the principles implicit in the Criminal Code. Because of federal responsibility in this area, the fact that the Bill of Rights did not extend to provincial jurisdictions was not as important as it was for other guarantees of rights and freedoms. Thus the Charter's provisions concerning legal rights come from a long history of judicial interpretation and legislative enactment. The complex judicial evolution of the legal rights provisions in the Bill of Rights suggested the need for detailed provisions in the Charter.

The specific provisions contained in sections 8 to 14 of the Charter are designed to parallel the operation of the criminal process. Section 8 ("search or seizure") and section 9 ("detention or imprisonment") apply to citizens under investigation; section 10 relates to "arrest or detention"; and section 11 covers those "charged with an offence". Section 12 is a sentencing provision. Finally, two provisions applicable to witnesses round out the legal rights: section 13 provides that a witness, in giving evidence, cannot be incriminated in a subsequent proceeding, and section 14 provides interpretation facilities where a party or witness does not understand the language of the proceeding.

While the bulk of the legal rights provisions apply to the criminal-justice system, they are also important in other areas where citizens are subject to official control or regulation. For instance, while the definition of crime is a federal responsibility, provinces and municipalities impose sanctions in fields from securities law, where a penalty provision may include imprisonment, to parking offenses, where the \$3 penalty is not yet extinct. The Charter now subjects proceedings related to these offences to the same legal rights that the Bill of Rights previously guaranteed for offences under the Criminal Code. Similarly, protection from "cruel and unusual treatment or punishment" is extended to the actions of a wide number of provincial institutions. Thus, for example, provincial mental health legislation, hospital acts, or procedures established for patients confined against their will may also be scrutinized by the courts in light of the Charter.

These legal rights provisions are designed as much to influence the administration of justice as to strike down or limit legislative initiatives. The administration of justice is the responsibility of the provincial Crown prosecutors as well as of the federal prosecutors, but legislative responsibility in criminal matters resides squarely with the federal government. To the extent that provincial behaviour in administering the law is governed by federal legislation which the provinces cannot amend, a province cannot alter its behaviour without the legislative support of the federal government. Thus, although the Charter's general override clause applies to the legal rights provisions, opportunities for provincial variations in criminal procedures are limited.

In the area of police powers, good administration and law enforcement necessitated a statement of direction to the criminal-justice community. Section 24(2) states:

*Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.*

In the course of an investigation, the police or the Crown may use inappropriate techniques and thereby obtain evidence that would not otherwise have been obtained. In what circumstances should evidence so obtained be admissible against an accused person? What is the appropriate sanction for activity that the court finds to be inappropriate?

The American “forbidden fruit” doctrine ruled that such evidence and all that flows from it are inadmissible in the courts. Thus juries do not hear a statement or confession that would otherwise be admissible or see physical evidence collected as a result of the statement. Suppose the police in Canada use a wiretap without appropriate authorization under the Criminal Code. In the conversations they record, they hear about the movement of drugs and thus effect an arrest. They have both oral evidence of a conspiracy and physical evidence at the time of the arrest. Fundamental policy choices arise in this situation. Should this evidence be admissible? If it is not, the suspects would be released; if it is, the courts appear to condone unlawful activity by agents of the state. Should a suspected felon be freed to compensate for the errors or wrongdoing of police personnel? The Charter gives judges considerable scope to control unacceptable police behaviour.

Legal rights will evolve within the general framework of the Charter, and it will be recalled that section 1 provides that both laws and actions that are demonstrably justified in some circumstances can be found valid despite apparent inconsistency with the Charter. However, the legal rights provisions themselves contain qualifications similar to those found in section 1. Phrases such as “principles of fundamental justice”, “unreasonable search or seizure”, “arbitrarily detained or imprisoned” or even “informed promptly” give the courts the responsibility to flesh out the evolving meaning of these standards.

The evidence rule outlined in section 24(2) and the internal qualifications in the legal rights guarantees require courts to consider the actions of the prosecution to ensure that in specific circumstances, an appropriate balance has been reached. These qualifications do not relate only to unreasonable laws, but to unreasonable activity. That is their principal thrust.

## Notes

1. See Walter S. Tarnopolsky, *The Canadian Bill of Rights*, 2d ed. (Toronto: McClelland and Stewart, 1975), p. 5.
2. Canadian Bar Association, *1946 Proceedings* (Toronto, 1946), p. 144.
3. *Roncarelli v. Duplessis* [1959] S.C.R. 121.
4. Canada, Parliament, *Canadian Bill of Rights: An Act for the Recognition and Protection of Human Rights and Fundamental Freedoms* (Ottawa, 1960).
5. *Ibid.*
6. *R. v. Drybones* [1970] S.C.R. 282.
7. *Curr v. The Queen* [1972] S.C.R. 889, at 899.

## **The Charter, National Cohesion and the Canadian Community**

The Charter contains some guarantees of rights best understood as efforts to promote social cohesion and national unity. The provisions in this group of rights are closely associated with the social role of the modern state as Commissioners have previously described it: that is, the task of representing and reconciling cultural, linguistic, territorial and other facets of our diversity. This broad group of rights in the Charter includes language rights, minority-language/education rights, mobility rights and the guarantee that the Charter is to be interpreted in a manner consistent with the preservation and enhancement of our multicultural heritage. These guarantees do not focus exclusively on individual rights. Though this remains a primary concern, these rights have profound implications for Canadian federalism and for relations between the national and provincial communities. This is particularly true of the minority-language/education and mobility rights.

Discussions during 1980–82 on these “national community” guarantees often seemed more a political tug-of-war between two levels of government than a discussion of the rights of citizens. The debate reflected that governments were quite naturally concerned with the consequences of the Charter’s provisions for their jurisdictional authority, that the Charter was the centre-piece of the federal government’s promise to the people of Quebec of “renewed federalism”, following the Quebec referendum, and that inclusion of mobility rights was central to federal proposals for securing the economic union.

In the process of negotiation, the proposals were significantly altered. The provisions in the Charter reflect compromises and concessions. Federal-provincial relations and the issues of unity in the federation preoccupied Canadian politicians in the early 1980s and affected the Charter. Provisions of the Charter that relate to communities and national cohesion will illustrate the point. Commissioners will consider first the provisions respecting official languages and cultural groups and then turn to mobility rights.

### **Official Languages and Minority-Language Education**

The Charter’s guarantees for language rights and minority-language education are found in sections 16 to 23. In effect, sections 16 to 21 give constitutional status to parts of Canada’s official languages legislation and to that of New Brunswick. Residents of Canada have the right to communicate in English or French with the federal government, to receive services in either official language where there is significant demand, or where it is reasonable for such services to be provided, and to use English or French in Parliament and in all courts of law under federal jurisdiction. Governments may expand, but not diminish, the rights guaranteed in the Charter.

Section 22 affirms that the language guarantees in the Charter do not abrogate or derogate “from any legal or customary right or privilege acquired or enjoyed before or after the coming into force of the Charter with respect to any language that is not English or French.” However, the most significant



new language right created by the Charter appears in section 23. The Ontario Court of Appeal has suggested in a recent judgement that section 23 “creates a code which establishes minority language education rights for the nation.”<sup>1</sup> Section 23 confers two rights:

- Parents who qualify under section 23 have the right to have their children receive publicly funded primary- and secondary-school instruction in the minority language of English or French wherever the number of children of such citizens warrants.
- Parents who qualify under section 23 have the right to have their children receive that instruction in English or French minority-language educational facilities provided out of public funds, again, where the numbers of children warrant.

Court judgements to date suggest that the number of parents required to make these provisions operational will vary from area to area within Canada.

There are three main criteria by which citizens can qualify for minority-language/education rights. Under section 23 (1)(b) the so-called “Canada clause”, the children of Canadian parents whose primary-school instruction in Canada was in English or French have the right to receive their primary and secondary school instruction in the corresponding language if they live in a province where speakers of English or French form the linguistic minority. The brothers and sisters of children educated in English or French in Canada also have the right to primary and secondary instruction in the corresponding language. Canadian citizens also qualify for these rights for their children if their own mother tongue, the first language learned and still understood, is English or French. This last provision will not take effect in Quebec, however, until the National Assembly or the Government of Quebec authorizes it. This special provision for Quebec was part of an effort to accommodate the concerns of the provincial government on the future of French in Quebec, in return for the province’s support for the package of reforms as a whole.

The rights expressed in section 23 pertain to individual citizens who live in a community with a significant number of others who have as their mother tongue the same minority official language. The courts must establish criteria for determining “where numbers warrant”. Thus the continuing availability of this right will probably depend on the existence of appropriate concentrations of those speaking a minority official language. The number of children in any particular area may, in the future, fall below that needed to meet the “numbers” requirement. Courts may then conclude that public authorities in such areas no longer need to provide minority-language education and people who have become accustomed to these facilities may find them no longer available.

The section on minority-language education in the Charter confers positive rights. It requires governments to provide publicly funded facilities and/or instruction, where circumstances warrant, rather than merely permitting them to take action. Significant efforts to give expression to these rights in the federal arena date from the publication in 1967 of Book I of the Report of the Royal Commission on Bilingualism and Biculturalism. The Commission

recommended a number of steps, constitutional, legislative and policy-related, to enable the English- and French-language communities to co-exist and flourish in Canada.

## **Federal Official Language Legislation and Policies**

Almost immediately after the tabling of the Report of the Royal Commission on Bilingualism and Biculturalism, the federal government adopted many of its recommendations. In 1969, Parliament passed the Official Languages Act, the first of a recent series of federal laws and programs to foster better relations between Canada's two major linguistic groups and promote linguistic equality in Canada. The Act improved on the British North America Act of 1867 by declaring English and French "official languages", and by extending language rights to the activities of the Government of Canada generally and not just to those of Parliament. Henceforth the public had a right to communicate with, and to receive services from, federal departments, agencies, courts and Crown corporations in either official language.

To oversee implementation of the Official Languages Act, the government, in 1970, established the office of the Commissioner of Official Languages. The office has construed federal language policies broadly:

*The whole purpose of the federal language effort is to resist the blandishments of a Canada split along language lines. The fundamental objective is to construct a society in which the minorities can expect to live much of their lives in their own language.<sup>2</sup>*

The federal government directs its language policies both at the federal public service and at Canadian society as a whole. In the federal public service, it has sought equitable participation of the two major linguistic groups, availability of government services in the two official languages, and establishment of both French and English as languages of work in the federal public service.

The proportion of francophones in the federal public service increased from 13 per cent in 1974 to 27.5 per cent in 1983, a figure roughly equivalent to the percentage of francophones in Canadian society. Areas of the country with a small francophone population, however, have very few bilingual public servants. In the four Western provinces, there were 50 000 federal public servants in 1983. Fewer than 800 of these were qualified bilinguals in designated bilingual positions serving approximately 185 000 francophones in the region.<sup>3</sup> The provision of federal services in French in those provinces suffers. Francophones are also underrepresented at different ranks and in different kinds of activities in the public service.

Failure to achieve an appropriate nation-wide distribution of bilingual public servants means that Canada remains a country divided along linguistic lines. Research suggests that the federal public service reflects a country divided into three groups: a Quebec group primarily French, but offering bilingual services; a narrow "bilingual belt" where services are provided in both official languages from Moncton, New Brunswick, to Sault Ste Marie,

Ontario, and anglophone Canada, where services are largely available in English only. The figures parallel the distribution of francophones in Canada: 80 per cent live in Quebec, and most of the remainder live in the Moncton-Sault Ste Marie bilingual belt.

Federal policies on language of work aim to allow official-language minorities a more natural, less restricted choice of working language in the federal administration. In practice, the goal remains elusive. Outside Quebec and the National Capital Region, French is rarely a language of work on a day-to-day basis. Setting up an infrastructure of "bilingual documentation" and "bilingual occupants of bilingual positions" has not made people feel free to work in whichever language comes most naturally. Data for 1981 released by the Treasury Board show that in internal communications in bilingual regions, anglophones use French 18 per cent of the time, while francophones use English 47 per cent of the time. In spite of the relatively low use of French by francophones, Treasury Board data show that francophones are relatively more satisfied than anglophones (72 per cent as compared to 49 per cent) with existing proportions of language use among public servants in bilingual positions. These data prompted the Commissioner of Official Languages to wonder whether "the question might reasonably arise whether we should leave well enough alone. In other words, is it not paternalistic to suggest that Francophones should want to use more French, despite apparent affirmations to the contrary?"<sup>4</sup>

The bilingualism program in the public service has had considerable success. In 15 years the participation rate of francophones has risen compared to their proportion of Canada's population, the number of bilingual anglophones has increased dramatically, and availability of bilingual public services has increased in some areas of our country. It is equally clear, however, that our bilingual goals for the federal public service remain elusive outside the limited bilingual-belt area; the language-of-work policy has had even more limited success.

The federal government also directs its language policies at the broader Canadian community. The objectives of these programs are to promote bilingualism among Canadians, to enhance and preserve minority official languages, and to foster an appreciation among all Canadians of the equal status of our two official languages. It is not Commissioners' purpose here to review these programs, but a brief comment on the program that the former Commissioner of Official Languages has called "a Canadian success story of the first order"<sup>5</sup> illustrates the rapid progress of bilingualism among anglophones.

According to one American authority on language acquisition:

*Canadian immersion is not simply another successful language teaching programme—it may be the most successful programme ever recorded in the professional language-teaching literature.*<sup>6</sup>

Realization by anglophone Canadians of the economic and other benefits of bilingualism and widespread availability of the programs account for the popularity of French-immersion education in our country. Registration in these programs has grown phenomenally, and the number of schools offering



French immersion has increased by leaps and bounds. From 1977–78 to 1984–85, the number of schools offering French immersion programs increased by over 300 percent from 237 to 988. Total enrolment for 1984–85 is approaching 150 000.<sup>7</sup> Enrolment is still concentrated in the early grades, though there is a recent trend toward high-school immersion. Each year the size of the entering group grows.

Over the past decade, the federal government has encouraged several provinces to become officially bilingual. It expressed the hope that other provinces, particularly Ontario, would follow the example of New Brunswick, which declared a provincial Official Languages Act in 1969. Despite provincial support for immersion programs and minority-language education, as well as initiatives by provinces such as Ontario to increase bilingualism in the provision of public services and enhance French in other aspects of daily life, no province other than New Brunswick has so far passed, on its own initiative, legislation making French and English the official languages of the province.

While official bilingualism requires a supporting legal framework, bilingualism is not a matter simply of language laws. Recent public opposition to bilingualism in Manitoba and New Brunswick is a reminder that bilingualism policy in Canada can be set back by negative public reactions. It is therefore encouraging to note the public pressures for, and the positive responses of parents and children to, government-provided immersion facilities that will help to overcome language barriers. Yet much remains to be done. There must be further sustained effort to secure Canada's two official languages throughout the public service. Commissioners believe that it is important to consolidate the progress of the past and to continue to build on existing foundations. Our history, as well as more recent events, indicates that continued government leadership is essential.

Legislative and policy initiatives tell only part of the story of attempts to promote bilingualism and official language policy across Canada. The new constitutional rights to minority-language education and constitutional recognition of the two official languages, are central components of federal efforts to preserve and enhance official languages across our country.

## **Federal Constitutional Initiatives respecting Language since 1968**

Since the Royal Commission on Bilingualism and Biculturalism recommended changes to the British North America Act, the federal government has advocated constitutional recognition of official languages and minority-language/education rights. That Commission recommended that section 93 of the British North America Act be amended to provide that:

*Every province shall establish and maintain elementary and secondary schools in which English is the sole or main language of instruction, and elementary and secondary schools in which French is the sole or main language of instruction, in bilingual districts and other appropriate areas under conditions to be determined by provincial law; but nothing in this section shall be deemed to*

*prohibit schools in which English and French have equal importance as languages of instruction, or schools in which instruction may be given in some other language.*<sup>8</sup>

Elsewhere in its Report, the Commission argued that parents should be free to choose the official language in which their children would be educated, and that this instruction be publicly funded where numbers warrant.

In a 1968 white paper, *A Canadian Charter of Human Rights*,<sup>9</sup> Justice Minister Pierre Trudeau proposed that the recommendations of the Commission be entrenched in a constitutional bill. A year later, as Prime Minister, he elaborated. Language rights, he said, were individual rights that should be guaranteed to all citizens no matter where they live in Canada. Language rights, like other human rights, were essential protections for individual citizens, both in their relations with governments and in their relations with one another.<sup>10</sup> Following publication of the Report of the Royal Commission on Bilingualism and Biculturalism, the Government of Canada proposed to entrench language rights and minority-language/education rights. Its position remained essentially unaltered throughout the 1970s.

There was a gradual movement away from the philosophy of universal free parental choice, caused by events in Quebec in the 1970s and the efforts of successive governments in that province to stem the declining use and status of French among Québécois. Acting on the recommendations of the provincial Commission of Inquiry on the Position of the French Language and on Language Rights in Quebec (Gendron Commission, 1972), in 1974 the provincial government of Robert Bourassa declared French the sole official language of the province. This declaration was not welcomed by the federal government, which was encouraging the provinces to move toward bilingualism. Moreover, in an attempt to steer immigrant children into French schools, the Quebec legislation restricted access to English-language education to those with demonstrated fluency in English.

With the election of the Parti québécois and the introduction of the French Language Charter (Bill 101) in 1977, Quebec's policy diverged even more decidedly from that of the federal government. In addition to declaring French the sole official language, the Quebec Charter declared that French would be the only language of official record in the National Assembly, that judgements rendered by Quebec courts would be in French, and that the French text of legislation would be the sole authentic version. Other parts of Quebec's French Language Charter dealt with matters affecting the use of French at work and in daily life.

Quebec's French Language Charter also stipulated that with certain limited and temporary exceptions, only children with at least one parent educated in English in Quebec would be admitted to English-language public schools, unless a reciprocal agreement was established with other provinces to guarantee access to French schools for students whose mother-tongue was French. In 1979, in St. Andrews, Nova Scotia, Canadian provincial premiers, at their annual meeting, agreed among themselves to establish such a reciprocity (the St. Andrews Accord). However, the "Canada clause" provision in the Charter of Rights superseded this Accord, establishing access

to minority-language instruction for the children of citizens qualifying under section 23 of the Canadian Charter.

These developments in Quebec during the 1970s, from the Gendron Commission Report to the Parti québécois's language legislation, had inescapable consequences for the federal government's language policy. Quebec's language legislation reinforced the federal government's resolve to protect French-language communities outside Quebec. The demands of Quebec's anglophone minority for the protection and security of its language demonstrated that English- as well as French-language minorities in Canada were seeking guarantees. It was clear, however, that the Quebec government would not accept universal free parental choice, which it believed, worked disproportionate hardships on the future of the French language in that province.

The provisions for minority-language/education rights in the 1982 Charter represented a compromise for the Government of Canada. That government had moved away from universal free parental choice, which was replaced by the "Canada clause"; in addition, the clause affecting new Canadians was not to be enforced in Quebec without that province's consent. Quebec's government would not accept the proposal: it was convinced that education, including language issues, remained, and should remain, under provincial jurisdiction and not be subject to external criteria. It has still not assented to the Constitution Act, 1982. Nonetheless, these provisions of the Canadian Charter are now the basic law of the land, and have as much effect in Quebec as elsewhere in Canada. Recent court proceedings have found parts of Quebec's French Language Charter inconsistent with the Charter of Rights and have ruled that in cases of conflict the Charter of Rights will prevail.<sup>11</sup>

## **Multiculturalism**

Section 27 of the Charter states that the entire document is to be "interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians." This section will probably moderate and control laws that are offensive to the principles of a multi-ethnic society and cultural tolerance. By specifying multiculturalism as a distinctive aspect of the heritage of Canadians, the Charter recognizes the contribution and needs of the many cultural communities of Canada.

As a policy objective, multiculturalism is a new goal in Canada. The settling of the Prairies by European immigrants in the early twentieth century, the use of Chinese labourers before that to build the Canadian Pacific Railroad, and the even earlier migration of American Blacks to Nova Scotia are all part of the popular mythology of Canada as a culturally diverse "mosaic". Yet, at the end of the Second World War, Canadian national institutions only weakly reflected Canadian dualism, and there was little recognition of ethnic diversity. In the post-war period, the climate of opinion encouraged changes in our collective self-definition as a national community. Extensive immigration after the Second World War may have made the transformation inevitable. Changes within Canadian society have brought



with them pressures to change the symbols of government and society to reflect the multi-ethnic composition of our national community.

The Royal Commission on Bilingualism and Biculturalism inspired contemporary federal policies of multiculturalism, just as it did the current approach to language policies. That Commission had not intended to devote much attention to the "other ethnic" aspects of its mandate, but after receiving strong representations from a number of ethnic groups, it devoted an entire book of its six-volume report to a review of the "third force" in Canada.

The federal government's concern with bilingualism helps to explain the timing of the policy of multiculturalism. Indeed, multiculturalism, introduced on the heels of the 1969 Official Languages Act, was the federal government's attempt to defuse some of Western Canada's criticism of the bilingualism policies. Nevertheless, to interpret multiculturalism only as a means to secure broader support for bilingualism, as some Canadians have done, is to miss other important matters. In fact, the policy of multiculturalism corresponded to several interrelated developments. The changing character of Canadian society after the Second World War brought a partial informal redefinition of the nature of the Canadian community. Within that community, a reallocation of status among linguistic and ethno-cultural groups was under way.

The federal government intended its multiculturalism policy to form another element in that reshaping of society:

*A policy of multiculturalism within a bilingual framework commends itself to the government as the most suitable means of assuring the cultural freedom of Canadians. Such a policy should help to break down discriminatory attitudes and cultural jealousies. National unity if it is to mean anything in the deeply personal sense, must be founded on confidence in one's own individual identity; out of this can grow respect for that of others and a willingness to share ideas, attitudes and assumptions. A vigorous policy of multiculturalism will help create this initial confidence. It can form the base of a society which is based on fair play for all.<sup>12</sup>*

The Royal Commission on Bilingualism and Biculturalism expressed the premise of the federal policy: "Man is a thinking and sensitive being; severing him from his roots could destroy an aspect of his personality and deprive society of some of the values he can bring to it."<sup>13</sup>

Within a few years of introduction of the new policy, however, it became clear that a gap had developed between stated objectives and results. Some critics saw public support to third-force cultural groups as no more than assistance to ethnic folklore, and they called multiculturalism a "song and dance" routine.<sup>14</sup>

To other critics, the policy appears to maintain cultural distinctiveness among Canadians who are, in fact, living together in one national community. Many members of ethnic groups in Canada fear being "locked in" by ethnic boundaries. As one multicultural group told this Commission, "Ethnic Canadians . . . came here to be Canadians." (Council of National Ethnocul-

tural Organizations of Canada, Brief, October 31, 1983, p. 3.) Another group, however, told us:

*As long as we have a society where the most appreciated values are those of the dominant group, whether it is the Anglo-Saxon group or the Anglo-Celtic group, to the detriment of values and traditions that other groups can offer, then these minority groups will always suffer discrimination even though it may not be legislated discrimination or overt discrimination.*

(Thunder Bay Multicultural Association, Transcript, Thunder Bay, October 17, 1983 [vol. 26], p. 5191.)

Commissioners believe that multicultural policy should preserve ethnic diversity without isolating the very groups this policy seeks to assist. It should permit all Canadians to preserve and enhance the culture and traditions of their heritage, but it should also be consistent with Canadian aspirations for greater individual equality.

To adjust to a multicultural society requires more than mere recognition and accommodation of diversity at the symbolic level. When multiculturalism involves racial diversity — as has been increasingly true of Canada — a pressing need can exist to confront and combat racism. For visible minorities, racism can be a source of day-to-day anguish. Canadians do not think of themselves as racist, yet considerable evidence suggests that ethnic minorities, and particularly some “visible” minorities, are victims of systemic discrimination in Canada. A number of recent studies show that some visible minorities experience severely limited economic and social opportunities, and that the underlying cause is lingering racism.<sup>15</sup>

It is unlikely that transformation of the symbolic order, affirmative action programs, and even the Charter’s prohibition of racial discrimination will root out systemic discrimination. *Equality Now*, the report of the Special Committee on Visible Minorities in Canadian Society, contains 80 recommendations to combat racial discrimination. These include proposals to improve language training for immigrants, introduce voluntary affirmative action in hiring and promotion policies, amend Criminal Code provisions respecting hate propaganda, extend support for multicultural arts, and promote respect for the observance of various national days and holy days of different cultures. We Commissioners have not, in our research, addressed the issue of racial discrimination in the same depth as has the Special Committee. We can observe, nonetheless, that racial discrimination in Canada results in an unjustified and indefensible denial of the rights of some individual Canadians and a tragic waste of human resources. Efforts must continue to increase individual equality throughout the Canadian community.

## Mobility Rights

Commissioners wish also to consider mobility rights as they relate to Charter provisions concerning national cohesion. The Charter contains the first constitutional expression of mobility rights for Canadians.

Section 6 of the Charter guarantees the right to every citizen of Canada to enter, remain in and leave Canada. This right is in accordance with the

provisions of the United Nations International Covenant on Civil and Political Rights, ratified by Canada in 1976. The section guarantees, also, the right of citizens and permanent residents of Canada to live and seek employment anywhere in the country. The rationale for mobility rights within Canada is based on two assumptions: that barriers to personal mobility inhibit operation of the Canadian economic union, and that common citizenship implies freedom of movement within the country, unrestricted by provincially or federally created barriers.

Subsection 3 of section 6 restricts mobility rights in two ways. It permits limitations imposed by laws or practices of general application in a province (such as ordinary rules of employment concerning health, qualifications and union membership), where such laws or practices do not discriminate primarily on the basis of past or present province of residence. In addition, it permits provinces to impose reasonable residency requirements as a condition of eligibility for publicly provided social services. Subsection 4 enables provinces to pursue programs intended to ameliorate the conditions of socially and economically disadvantaged individuals when the provincial employment rate is below the national rate.

Quite apart from its potential to limit the mobility rights of Canadians, subsection 4 employs the terminology of "rate of employment", for which data are unavailable. The "rate of employment" is not the converse of the unemployment rate with which Canadians are familiar, the statistics of which are published monthly by Statistics Canada. One cannot infer that the rate of employment in a province is 90 per cent on the basis of knowledge that the provincial unemployment rate is 10 per cent.

Statistics Canada does publish statistics on the employment/population ratio which represents the number of persons employed, expressed as percentage of the population 15 years of age and over. However, officials of Statistics Canada and of several provincial Departments of Labour are not confident that these statistics would be accepted by the courts, for constitutional purposes, as appropriate indicators of the "rate of employment". So far the courts have not had occasion to pronounce on the issue. Thus, three years after the Charter came into affect, Canadians lack common understanding of the data base required to provide operational meaning to a key clause in the Charter which affects citizens' rights.

It is possible that when the "rate of employment" is defined by the courts, particular provinces with above-average rates of unemployment which represent the politically visible figure that evokes public reaction, may also have above average rates of employment and thus will be precluded from using subsection 4. It is also plausible that when a case finally reaches the Supreme Court, different governments will prefer different definitions and will employ competing statistical analyses to support their positions. The general assumption that all legislation is an experiment with the future applies with particular cogency to subsection 6(4) of the Charter.

This subsection, when judically interpreted, could affect the mobility of significant numbers of Canadians. The actual number of provinces entitled to implement measures intended to ameliorate the conditions of socially or



economically disadvantaged individuals in the province will depend on the distribution among the larger and smaller provinces of rates of employment.

In the light of this potential problem, it is well to remember that the provinces supported the right of personal mobility in the constitutional negotiations that preceded the adoption of the Charter. They sought amendments to the federal government's proposal on mobility rights, not in order to undermine the general purpose of the clause, but rather to ensure that provincial governments did not lose the authority to manage their societies effectively. As Allan Blakeney, then Premier of Saskatchewan, explained:

*While remaining committed to the maintenance and improvement of the Canadian Economic Union, provincial governments must also accept their responsibility for providing economic opportunity to Canadians residing within their province.<sup>16</sup>*

A number of conditions limit the ability of provincial governments to override the mobility clause. Section 1 of the Charter, the "reasonable limitations" clause applies to provincial schemes for preferential employment. It stipulates that all restrictions on the rights and freedoms guaranteed by the Charter must be reasonable and demonstrably justified in a free and democratic society. Provincial laws, programs or activities must be directed at those who are "socially or economically disadvantaged." In provinces with below-average employment rates, programs may give certain preferences to residents meeting specific qualifications, but they must not impose blanket prohibitions of mobility. Perhaps most significant, from the perspective of the Canadian economic union, the provisions on mobility rights are likely to be most effective in the provinces where they are most needed: those where there is a greater chance of obtaining employment.

Commissioners believe that the courts will probably assume an important role in administering the mobility-rights guarantees. In so doing, they will become deeply involved in the task of reconciling national and provincial interests and citizens' rights. One observer has suggested that in determining the reasonableness of provincial actions limiting personal mobility, the courts will be obliged to balance the interests of the national community against the more particular interests of the local community:

*There may then be no alternative to a balancing approach under which barriers to mobility will be unconstitutional unless the benefits created by their promotion of local interests demonstrably outweigh the burdens they impose on interprovincial mobility.<sup>17</sup>*

Commissioners also wish to note that even in circumstances where a province invokes its powers to limit the availability of mobility-rights guarantees, the federal government may still have considerable influence over the provision of mobility opportunities within that province. For example, the federal government might decide to prohibit mobility discrimination as a condition of provincial participation in programs that are jointly funded, or to attach comparable conditions to monies transferred to the provinces. However, the fact that limitations on mobility rights now have a constitutional status they

lacked before may make it politically more difficult for the federal government to secure contractual agreements overriding them. With respect to its own employees and employment practices, the federal government may, of course, establish its own practices, and possibly attach similar conditions to companies which work on federal contracts.

## Notes

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## The Charter and the Politics of Rights

The Charter provides new opportunities for the involvement of Canadians in public decision making. Based on its provisions, members of the public can question the actions of governments as they affect fundamental rights and freedoms of citizens. This is a new feature in the Canadian political process. Formerly the main judicial protections against legislated interferences with civil liberties and human rights were found in the division of powers. This division between the spheres of federal and provincial constitutional authority was often invoked to prevent one level of government from acting, even if such actions would be permissible if undertaken by the other level of government. Limited resort to the Canadian Bill of Rights was also available to protect rights at the federal level, as were less reliable arguments about an "implied" bill of rights in our parliamentary tradition which was also relevant to matters in provincial jurisdiction. More often, questions of fundamental rights violations simply were not raised before the courts.

Citizens now have a wide range of grounds from which to argue the violation of basic rights and freedoms. While the Charter selectively recognizes the supremacy of Parliament or the legislatures, this supremacy must be explicitly invoked by the legislatures either under the general override clause or under provisions qualifying mobility rights or permitting affirmative action programs. Furthermore, a court must be satisfied that the legislated schemes are reasonable and demonstrably justified. Thus the Charter provides important new opportunities for determining the limits of legislative authority.

During the three years that the Charter has been in effect, most of the visible action in establishing these limits has occurred in the judicial arena. Nonetheless, governments are already guided by the Charter in their day-to-day deliberations about new legislation and amendments to existing statutes and regulations. While the Charter may not appear to be in the forefront of the legislative process, it can never be far from the minds of the lawmakers.

As lawyers and their clients seek new interpretations and applications of the Charter in the courts, Canada will undoubtedly become a more litigious society. The Charter will also contribute to a greater consciousness of fundamental rights in Canada, among citizens and governments alike. In addition, the Charter may contribute to improving the democratic parliamentary process by providing a new incentive to discuss legislation fully, in terms of its implications for the rights and freedoms of citizens.<sup>1</sup> Thus, Commissioners believe that the Charter will alter the conduct of politics, both directly by bringing to bear on political decision making the spectre of judicial constraint and less directly by furthering the development of a political culture predisposed to review government actions from the perspective of the rights of citizens.

The Charter offers incentives to Canadian interest groups possessing the resources and the will to sustain costly and lengthy court proceedings. In the past, these groups have not made extensive use of constitutional litigation as a tactic in seeking to bring about a policy change. While various interest groups have challenged government regulatory policies sporadically, on grounds of federalism, there has been no Canadian parallel to the American interest-



group practice of initiating “test cases” supported by “legal defense funds”. This lack is no doubt explained by the previous absence of significant constitutional prohibitions other than the federal division of powers, and the Canadian legal community’s widely-held perception that policy making was not the proper business of the courts.

Some groups, however, have already begun to organize for such litigation. The recently established Legal Education and Action Fund for women is a good example. Its supporters hope that this fund, inspired by the successful example of the American Legal Defense and Educational Fund, Inc. of the National Association for the Advancement of Colored People (NAACP) and other similar programs in the United States, will ensure that women derive maximum benefit from the equality rights set out in the new Charter. This hope is premised on the belief that collectively supported efforts on behalf of women will be more effective than the individual legal initiatives women have undertaken in the past.<sup>2</sup>

Some groups and individuals will use the Charter to introduce issues to the political agenda and to advance particular causes in public proceedings. Is there a possibility that claims for entitlements based on the Charter will be over-used? Some may consider that the broad and general language of the Charter’s principles provides almost unlimited possibilities for constitutional arguments across virtually all of public policy. Judicial decisions will contribute to setting limits to these possibilities and procedures, and the courts’ early judgements will be crucial. But what will the public’s attitude be toward use of the Charter? Will the Charter’s emphasis on rights-based citizenship become the foundation for rights-seeking political behaviour?

Commissioners believe that the Charter will affect the ways Canadians think about and discuss politics. Over the past few decades, a popular language of citizens’ rights has begun to emerge in Canada, and it has already affected political behaviour across a wide range of issues. In what ways, then, will the Charter’s guarantees of rights affect the day-to-day political behaviour of citizens? Some analysts have argued that a strong tradition of rights seeking can erode the moral basis of a community and undermine considerations of duty and obligation. They suggest that the language of rights can lessen the willingness of community members to view their own rights in a balanced relationship to the rights of others and to the consensus underlying the community as a whole. In the broader context of the so-called “inflation” of human rights, one political philosopher has recently argued that rights-seeking behaviour and the advancement of rights claims on the basis that human rights are justified by natural law can disrupt the normal process of political bargaining and discussion:

*Those who advance political claims under the aegis of human rights, believing that their causes are sanctified by the most powerful of all moral considerations, are in no frame of mind to negotiate . . . Confronted by such massively heavy artillery, opponents of causes whose advocates invoke human rights are virtually compelled to resort to unduly heavy weaponry themselves . . . The human rights perspective tends to extend political controversies beyond their plausible limits and thereby inhibits reasonable political debate.<sup>3</sup>*

Such a perspective does not depend on the legal or constitutional recognition of such rights; rather it presents essentially political claims as human rights. However, Constitutional recognition of a wide range of citizens' rights, many expressed in very general terms, can provide extra ammunition for those advancing such claims.

A seasoned federal public servant recently speculated about the challenges, as he saw them, of governing in a rights-seeking society:

*The exquisite refinement of the overall field of human rights into a multitude of rights-seekers and rights-protectors has been a major development over the past ten years, and as the principal growth industry in government, rights have become a major preoccupation of public administrators . . .*

*Canada is in danger of becoming a rights-ridden country . . .*

*There is very little that can be done to contain the growth of the rights movement, given the difficulty of justifying opposition to any kind of right.<sup>4</sup>*

Commissioners do not wish to overstate the consequences of these developments. The Charter also expresses traditions of community values, and its tests of reasonableness and demonstrable justification clearly indicate that rights will not be extended on an unlimited basis. In the last analysis, however, only the citizenry itself can restrain the potential excesses of rights-bearing citizenship. The success of any charter of rights in enhancing the quality of citizenship relies at least as much on the degree of sophistication and responsibility that citizens bring to their use of the document as on its interpretation and enforcement by the courts.

In educating the Canadian public concerning their rights and freedoms, the Charter emphasizes the need for constant balancing between the reasonable and justified needs of the community and respect for the rights of its individual members. However, the Charter has clearly and appropriately shifted the balance in favour of the constitutional protection of the rights of citizens in their relations with governments. Certainly the benefits of this shift derive from an alert, fair-minded, and responsible citizenry, acting both individually and collectively in its political and legal affairs. It is good to be aware of the consequences that can follow when that trust is violated. But Commissioners believe that such awareness will reinforce Canadians' commitment to ground our community's future in the protected rights of individual citizens, and that it will strengthen the community as a whole. Similarly, such awareness will strengthen Canadians' resolve to protect and respect the rights of others and the collective needs of the community as a whole. Commissioners wish to emphasize that the Charter has provided a new defence for the protection of rights in Canada. Although the federal-provincial division of powers will remain important in some alleged violations of rights and freedoms, it will no longer bear the same responsibility. The Charter has placed protection of citizens' rights on a more independent footing in the Constitution.

## Notes

1. Peter H. Russell, "The First Two Years in Charter Land", paper prepared for Workshop of Canadian Government Area Group, Department of Political Science, University College, University of Toronto, March 19, 1984.
2. M. Elizabeth Atcheson, Mary Eberts, and Beth Symes, *Women and Legal Action: Precedents, Resources and Strategies for the Future* (Ottawa: Canadian Advisory Council on the Status of Women, 1984), pp. 41–42.
3. Thomas C. Pocklington, "Against Inflating Human Rights", *The Windsor Yearbook of Access to Justice* 2 (1982), p. 85.
4. H.L. Laframboise, "The Future of Public Administration in Canada", *Canadian Public Administration* 25 (Winter 1982), pp. 509–10.



## Equality Rights and the Charter

One of the recurring themes put forward at this Commission's hearings and a central message from representatives of women's groups, aboriginals, visible minorities and the handicapped was that Canada must work harder to become a society marked by more equality. Many of these groups challenged traditional notions of equality and outlined an interventionist role for governments in creating circumstances that would help individuals and groups to share the opportunities, benefits and burdens of Canadian society more fairly.

We Commissioners discovered at our hearings what is confirmed in the massive literature on equality: the understanding of equality has changed substantially at the popular level over the past few decades. The guarantees of equality rights recently incorporated in the Canadian Charter of Rights and Freedoms reflect many of these changes. The Charter-making process itself benefited from some of the most sustained and highly focused debates on equality ever to occur in Canada during the public hearings before the Special Joint Committee of the Senate and of the House of Commons on the Constitution of Canada.

There has been a significant shift in emphasis from procedural equality, that is equality before the law, to more substantive notions of equality. Many advocates of procedural equality hoped that prohibition of overt discrimination would secure equal opportunity. However, more and more Canadians have come to adopt the view that while removing procedural barriers is a necessary step towards equality, it is not a sufficient one. Social, cultural and economic conditions are obstacles to equal opportunity. In fact, many groups and individuals argue that equality includes not merely equal opportunity, but equal enjoyment of the outcomes and benefits of those opportunities. Notions of substantive equality address these concerns. The increased efforts of governments to combat the causes and effects of discrimination, and to ensure a more nearly equal distribution of the opportunities and benefits of Canadian society relate directly to this new concern for substantive equality.

By challenging traditional notions of equality, recent debates have forced reconsideration of some long-standing justifications for setting limitations on equality. Canadians have had to examine more closely common assumptions about inequality. During our hearings, we Commissioners heard that widespread social values and attitudes are at the root of persistent inequality in Canadian society, and that changing these values and attitudes should be an integral part of efforts to promote equality.

Equality has always been a powerful idea in democratic societies. The basic nature of any political community is reflected in its treatment of the issues associated with rights to equality. We Canadians can learn a great deal about the nature of our community by examining closely the guarantees of equality found in section 15 of the Charter. As with other powerful social ideas, however, equality is controversial, and the Charter's guarantees of equality will continue to provoke political debate and legal and political activity.

Guarantees of equality are only one part of the Charter. Interpretations of other sections of that document will affect the interpretation and application

of the equality guarantees. Of particular importance are the “reasonable limitations clause” (s. 1) and the “general override provision” (s. 33) which allows federal and provincial governments to override guarantees of equality.

Although section 15 sets out the Charter’s basic equality rights, other sections may be directly relevant to the interpretation of the equality guarantees. For example, the sexual-equality guarantee of section 28 provides that: “Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons.” Section 28 applies to all rights covered in the Charter. Section 27, reviewed above, refers to the preservation and enhancement of Canada’s multicultural heritage, while section 25 states that the guarantees set out in the Charter do not abrogate or derogate from any treaty or aboriginal rights pertaining to Native peoples. Sections 16 to 23 provide for the use of official languages and for minority-language education—cornerstones of equality programs for official language groups—and protect certain rights respecting other languages in Canada. In the absence of judicial interpretations of the Charter’s equality guarantees, Commissioners can only speculate on their ultimate effect. We believe, however, that all of these provisions contain some signposts of the Canadian commitment to equality.

## Section 15: Equality Guarantees

The guarantees of equality contained in section 15 of the Canadian Charter of Rights and Freedoms came into effect on April 17, 1985. The section reads:

### *Equality Rights*

*15(1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.*

*(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.*

In effect, four guarantees of equality are presented in section 15(1): equality before the law, equality under the law, equal protection of the law, and equal benefit of the law. These four guarantees and the relevant provisions previously mentioned indicate that the constitutional order now embodies a very broad definition and concept of equality.

The guarantee of equality before the law is similar to that set out in the Canadian Bill of Rights. Our courts have interpreted the Bill of Rights as requiring equality in enforcement and application of laws. This guarantee is fundamentally important to procedural equality, but critics view its restriction to matters of procedure as a basic weakness. By 1982, there was a strongly perceived need to supplement this guarantee of procedural equality with rights of a more substantive nature.

The guarantee of equality under the law as stated in the Charter made clear that the guarantees of equality applied to the substance of legislation. Earlier the courts had interpreted equality before the law to apply only to the administration of the law. They had concluded that inequality in legislation itself was beyond the reach of the Bill of Rights. That interpretation severely limited the effectiveness of earlier guarantees of equality: it permitted legislatures to make distinctions on the basis of sex or race, or on other grounds, as long as the law was administered equally.

The guarantee of equal benefit of the law in the Charter avoids situations in which individuals could be deprived of basic legislative benefits. The new guarantee is intended to overcome unfortunate precedents. The Bliss case concerned a woman who had worked enough weeks to qualify for regular Unemployment Insurance benefits, but not long enough to claim maternity benefits.<sup>1</sup> Because her inability to work was the result of pregnancy, she failed to qualify even for regular Unemployment Insurance benefits. The court held that there was no denial of sexual equality: the discrimination was not between women and men, but between pregnant women and everyone else, a form of discrimination that was not prohibited. The court said also that the case had to do with benefits and that, in its opinion, the Bill of Rights did not contain a guarantee of equal benefits. Women's groups and others rejected this interpretation and fought successfully for the stronger guarantee now explicitly found in the equal-benefits provision of the Charter.

The right to equal protection of the law again echoes the Bill of Rights, although the latter guaranteed only the right to "the protection of the law". There has been little jurisprudence on this provision. An aspect of discrimination that may be encompassed by the equal-protection clause, but that is not included under the other guarantees is discrimination resulting from laws that appear to be neutral, but that have discriminatory effects. We shall review shortly the systemic discrimination that can result from these seemingly neutral practices.

Section 15(1) further states that these equality guarantees apply without discrimination and, "in particular", without discrimination on the basis of race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability. The enumeration of some specific characteristics raises several questions. Can individuals complain about a denial of equality based on other grounds? If so, will the test for the validity of the challenged actions differ from the one applied in cases where discrimination on one of the enumerated grounds is alleged? For example, will the courts act against discrimination on the basis of age, which is enumerated in section 15, more stringently than against discrimination on the basis of sexual preference, which is not specifically mentioned? If there is such a scale, what is the principle for ranking the grounds?

The use of the phrase "in particular" in section 15 suggests that the list of grounds on which discrimination is prohibited is open-ended: while section 15 lists specific grounds on which discrimination is prohibited, this list is not exhaustive. If the courts follow the jurisprudence under the Bill of Rights, they will probably give protection on enumerated grounds. Will they treat non-enumerated grounds differently?



An individual arguing denial of equality rights on some ground not specified in section 15 might have to show that the specific ground deserves constitutional protection; such a requirement places an additional burden on the individual. The courts may prove to require substantial evidence before finding that legislation discriminates on the basis of non-enumerated grounds.

The courts will obviously be the central actors in establishing the application of section 15(1) of the Charter. But governments themselves can bring their own laws into conformity with the spirit of the Charter's provisions, especially where they become aware of discriminatory practices. Attitudes to equality change: one generation's idea of equality may seem discriminatory to the next. Where attitudes and understanding change beyond the established requirements of the Charter, governments, perhaps better than courts, can ensure that laws conform to the broad spirit and objectives of the Charter's guarantees.

Like the other rights guaranteed by the Charter, equality rights are not absolute. Some limitations on equality have received general support in the past: limits on various age groups, for example, in matters such as the age of majority, voting age and mandatory retirement. The equality guarantees in the Charter are subject to the general override power of legislatures, which means that governments can legislate notwithstanding the general constitutional guarantee of equality. The active constraint on governments in such instances is public opinion; in fact, governments need defend their actions in this regard before no other court. Where governments have not explicitly overridden an equality guarantee, the judiciary may itself consider whether a limitation is demonstrably justified, given the norms and traditions of a free and democratic society.

Thus two processes will shape the evolving meaning and scope of the Charter's equality guarantees. First, public opinion expressed through the political process may support recognition of new groups in terms of the equality guarantees, and will also condition the authority of governments to place restrictions on established equality rights through use of the general override provision. Secondly, judicial interpretation of the equality guarantees and of the justified limitations on equality in the context of a free and democratic society will have important effects.

The possibility of a scale of protected interests or grounds on which discrimination by governments is constitutionally prohibited will require further careful consideration. Some analysts have suggested that an approach developed in the United States may be useful. The equal-protection clause in the American Constitution does not enumerate specific grounds of prohibited discrimination. Thus, U.S. courts have had to determine, with reference to American history, which grounds are the most invidious and to devise standards to apply in scrutinizing offending legislation. Strict judicial scrutiny is usually applied to legislative distinctions based on race and nationality, for example. This means that the courts will strike down a law that discriminates on such grounds unless the government can demonstrate that it is pursuing a compelling end, and that the discriminatory classification is necessary to promote that interest. Where sexual discrimination is alleged, the courts have applied an intermediate test of scrutiny. Here, the discrimina-

tion imposed by a law must be substantially related to an important government interest, or else the courts will hold it to be an unconstitutional violation of the equality clause. The courts have devised a minimal-scrutiny test for legislation that discriminates on other grounds. Under minimal scrutiny, the American courts require simply that the classification rationally be thought to bear a relationship to a constitutionally permitted objective of government.

In Canada, the constitutional framework for the protection of equality differs from that of the United States. Our Charter explicitly provides that race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability are worthy of constitutional protection. However, a legislative distinction based on age may not require the same degree of justification as one based on other enumerated grounds. For instance, there may be demonstrably justifiable government objectives related to distinctions based on age that would not be acceptable on the basis of racial classifications. The protection of children is a possible example. It appears to be possible within the framework of section 15 of the Charter and the general limitations clause contained in section 1 to recognize different degrees of justification.

Other sections of the Charter may affect the degree of constitutional protection accorded to members of a particular group. They may enhance or detract from protection relating to the classifications set out in section 15. The separate requirement that all the rights in the Charter apply equally to men and women (s. 28), for example, will probably strengthen the prohibition of discrimination on the basis of sex. Similarly, the guarantees of religious equality in section 15 may be strengthened by the general guarantee of freedom of religion as a "fundamental freedom" elsewhere in the Charter. Nevertheless, the constitutional protection given to denominational schools may restrict or qualify those rights. In addition, while section 15 guarantees equality without discrimination on the basis of age, the Constitution Act, 1867 places upper age limits on members of the Senate and members of the superior courts.

Thus we Canadians may not need to adopt the three levels of scrutiny developed in the United States, but our courts may require different degrees of justification for protecting various types of equality.

## **Equality and Ethnicity**

As with the Bill of Rights which preceded it, the Charter prohibits discrimination on the basis of race and national or ethnic origin. Unlike the Bill of Rights, however, the Charter also outlines circumstances in which such distinctions become relevant for the rights of Canadians. It does so in the matter of language guarantees. While "national origin" and "mother tongue" are certainly not synonymous, the guarantees of minority-language education make distinctions among new Canadians largely, if indirectly, on the basis of their national origin, just as the guarantees also distinguish between Canadians who claim neither English nor French as their mother tongue and those who do.

The protection of aboriginal and treaty rights in the Charter may be a better example of the conflict that can arise between the equality rights of individuals and rights recognized on the basis of ethnicity. Sections 35 and 37 of the Constitution Act, 1982 and section 25 of the Charter recognize aboriginal and treaty rights. Some comments will illustrate the collective nature of these rights, and their potential conflict with the spirit of other sections of the Charter and with equality rights in particular. The Constitution Act, 1982 contains no directly comparable provisions for other groups.

In addition to recognizing and affirming aboriginal and treaty rights, section 35 of the Constitution Act, for the first time in Canadian history, recognizes Métis people, together with Indians and Inuit, as the aboriginal peoples of Canada. As amended following the Constitutional Conference of First Ministers in March 1984, section 35 guarantees all aboriginal and treaty rights referred to in this section equally to men and women. Through this amendment, section 35 now conforms with the Charter's provision of sexual equality. The innovative section 37 of the Constitution Act, 1982 provided for aboriginal participation in future discussion of constitutional matters that directly affect the aboriginal people of Canada. The consequent meetings were "a first" in Canadian history: in addition to the First Ministers, the leaders of major aboriginal groups attended.

Section 25 of the Charter provides that the Charter shall not be interpreted in a manner that abrogates or derogates from aboriginal rights. This section does not attempt to create new rights. As with certain other provisions in the Charter — those pertaining to language (s. 21) or to other rights not specified in the Charter (s. 26) — the function of section 25 is to ensure that the Charter does not diminish any rights and freedoms existing independently of it. As amended in 1984, section 25 provides that:

*The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada . . .*

Several questions arise from the provisions on aboriginal rights in the Charter. Can section 25 be used to challenge existing laws that have limited or taken away treaty or land-claim rights? The courts will have to answer this question. More generally, how can, and how should, we balance the individual rights of all Canadians with the collective rights of some groups within the broader national community? Canadians as a whole will have to answer this type of question.

The dominant political culture in North America places great emphasis on the protection of individual rights and freedoms. In Canada, we can see that emphasis embodied in the 1960 Bill of Rights, in provincial and federal human rights legislation and, since April 1982, in our Charter. The aboriginal cultures, however, have a quite different emphasis. The 1981 Report of the Métis and Non-Status Indian Constitutional Review Commission, entitled *Native People and the Constitution of Canada*, states:

*. . . the dominant socio-cultural system in Canada is liberalism which places emphasis on the individual, individual rights and private property. This is in*



*contrast to the value system of Native peoples which places a far higher value on the collectivity or upon the community. It is ironic that non-Native Canadians, with all their liberal ideological baggage, cannot understand the significance to the Native peoples, or for that matter to any self-conscious minority group of being recognized as a collectivity. They do not realize that a cultural minority faces certain death by assimilation if the political system forces it to deal with the majority culture as individuals.<sup>2</sup>*

It is from these different and, to a degree, conflicting cultural premises that problems arise in the protection of individual rights within the context of aboriginal communities.

When individual and collective rights conflict, which value system will prevail? Will it be the non-aboriginal Canadian society or the aboriginal community? What would happen if a member of a self-governing aboriginal community challenged that community's collective decision on the basis of his or her individual rights as enshrined in the Charter of Rights and Freedoms? Some analysts have argued that the purpose of section 25 is to ensure that aboriginal rights prevail over other provisions in the Charter.<sup>3</sup>

Aboriginal self-government, intended to provide protection for collective rights, introduces complexities for the protection of individual rights within the jurisdictional domain of aboriginal governments. Aboriginal organizations are particularly sensitive to this issue and recognize the need to balance individual and collective rights.

Some would argue that all individuals within aboriginal communities should be entitled to the full protection of the Charter and of the Canadian courts, that the Charter should apply within the jurisdiction of aboriginal governments as it applies within the jurisdiction of the federal and provincial governments, and that individuals should have access to independent appeal procedures. As Commissioners have argued in our section on aboriginal self-government, members of aboriginal communities should retain their rights as Canadian citizens. We view the Charter as contributing to a definition of Canadian citizenship. To exempt aboriginal communities from the individual-rights guarantees of the Charter would be to diminish fundamentally the citizenship of aboriginal Canadians.

The longstanding controversy over section 12.1.b of the Indian Act, which penalized Indian women who married non-Indian men by requiring them to forfeit their Indian status, demonstrated that these concerns about individual and collective interests are not simply abstract issues. They do arise in practice. Conflicts between collective rights, aboriginal rights and individual rights will arise; individuals living within aboriginal communities will appeal to external forms of protection. The manner in which such conflicts are resolved is integrally related to our sense of Canada.<sup>4</sup>

The multiple purposes of the Charter are the source of potential conflict between individual and group rights. The Charter not only encompasses the individual rights of Canadians, but it also addresses contemporary concerns about national cohesion. Earlier, Commissioners examined how the accommodation of provincial communities, both through the specific provisions respecting personal mobility rights and the general override

provision, may interfere with the mobility of individual Canadians and with other rights guarantees. We noted that over-use of these legislative powers could introduce so much variation across the country that the concept of individual rights in a national community could be undermined. We accepted that provisions for variation reflect the historic reality of the Canadian community and argued that recourse to these provisions will be moderated by the spirit of the Charter. The Charter recognizes certain fundamental rights and freedoms of Canadians in constitutional terms. This new status for citizens' rights requires that departures from stated constitutional norms be justified by those who have the authority to introduce such departures.

Commissioners believe that the provisions underlying the special status of various cultural groups in Canada can be understood on the same basis. The multicultural design of Canada, the official status of two languages, and the more recent official affirmation of aboriginal rights reflect deliberate choices worked out by the political process. Canadians value the cultural distinctiveness of our various ethnic communities, and we have self-consciously styled ourselves a country of immigrants; at critical points in our national history, we chose to develop as a bilingual nation, where mother tongue would carry certain special rights. Yet this celebration of group differences is at best only half of our personality. We are also a society of individuals, nurtured by the traditions of democratic liberalism. In such a society, one does not interfere lightly with the equality of citizens. Neither is the celebration of our group differences a justification for denying opportunities for individuals to develop their abilities to the full. Appropriately, section 15(1) of the Canadian Charter of Rights and Freedoms makes a broad and general guarantee of the equality of every individual and prohibits discrimination based on such grounds as race and national or ethnic origin. This is Canada's fundamental commitment to equality.

## **The Affirmative Action Clause**

Section 15(2), a counterpart of section 15(1), protects governments from constitutional challenges in instances where they have taken positive action to rectify situations where groups are at a disadvantage because of past discrimination. Section 15(2) represents an exemption from subsection (1) where the object of a law, program, or activity is to ameliorate conditions of disadvantaged individuals or groups. This provision was included in the Charter to avoid problems which occurred in the United States when affirmative action programs were introduced. In a number of decisions, the U.S. Supreme Court ruled these programs unconstitutional. They were deemed to constitute a form of reverse discrimination contrary to the equal-protection guarantees. To avoid these problems, the framers of the Canadian Charter made it clear that any affirmative action program with the appropriate objective would be exempt from section 15(1).

Section 15(2) does not require that governments take affirmative action, although it is conceivable that the courts, through the remedies section of the Charter, could require that an affirmative action program be initiated in

order to remedy past discrimination. While the courts could do this, section 15(2) provides a valuable mechanism for governments to take initiatives toward the attainment of equality in Canada.

In an earlier chapter of this Report, Commissioners concluded that affirmative action is useful for achieving greater equality of opportunity and wage parity for men and women in the labour force. Affirmative action can also be used to combat discriminatory attitudes and to provide role models for disadvantaged groups. In recent years, it has become more popular as an instrument for combatting what is now commonly referred to as "systemic discrimination". The recent Royal Commission on Equality in Employment (the Abella Commission)<sup>5</sup> recommended mandatory affirmative action programs, both federal and provincial, for improving equality of opportunity for employment for women, the handicapped, visible minorities and Native peoples. Similarly, the recent Special Committee of the House of Commons on Visible Minorities<sup>6</sup> recommended the establishment of voluntary affirmative action programs to assist visible minorities to overcome systemic discrimination. In 1981, the Special Committee on the Disabled and the Handicapped<sup>7</sup> recommended that federal government departments, agencies, and Crown corporations expand or implement affirmative action employment programs for the disabled. In the past, this technique has also been used to promote the participation of francophones and Native peoples in the public service, as well as the participation of the disabled and of women.<sup>8</sup>

In this Commission's hearings, many groups and individuals spoke about various forms of systemic discrimination. This form of discrimination is invisible and often unconscious, having grown up over time and become embedded in our culture. It is different from overt discrimination, which manifests itself in clearly expressed prejudice. Overt discrimination occurs, for example, when a property owner says "I will not rent my apartment to a family on welfare," or an employer says "I will not hire a woman." This kind of discrimination is prohibited by law, and a victim of such prejudice can seek redress with Human Rights Commissions and through other legal protections. Systemic discrimination is of a different kind; it can operate unconsciously so that individuals may not be aware that their attitudes and behaviour systematically exclude or discriminate against some people. For example, seemingly neutral job requirements such as standards of height and weight may constitute a barrier to whole sections of society.

Systemic discrimination cannot be easily eliminated. To alter discriminatory attitudes and traditions involves changes in our public and economic institutions and practices, as well as in our personal lives. For instance, some participants in our hearings argued that to equalize employment opportunities for women requires that we, as a society, collectively change practices and attitudes toward family responsibilities, child care and the division of domestic work. It requires, as well, that we change early socialization and educational patterns by which we encourage one set of values for boys and another for girls. The Canadian Advisory Council on the Status of Women told us that the time has come for a re-examination of our societal attitudes and practices in these areas:



*Education, adult training, community facilities, working hours, and support services for families with children must be re-examined to see how they are influenced by the stereotype of the traditional family, in which the woman devotes all her time to ensuring the well-being of the other members. These biases must be corrected, and we must change our social organization so that a mother can find the independence and financial security she needs in the labour market just as easily as a father can. The cooperation of all levels of government and the participation of all economic agents will be needed to bring about this transformation.*

(Canadian Advisory Council on the Status of Women, Brief, November 30, 1983, p. 44.)

To be sure, there has been much progress on these matters in recent years, within families, in school counselling, in university-enrolment patterns and elsewhere. Public awareness of these matters is an important first step in the direction of greater equality. And in recent years, a growing number of community services and support networks have sprung up across the country to assist people who experience systemic discrimination. In our hearings, testimony abounded about the useful services these voluntary organizations provide. But these same intervenors were adamant that to rely on voluntary agencies and individual self-help is not enough. Active government involvement is required to eliminate systemic discrimination. There are several reasons for this.

First, the process would occur more quickly with effective government leadership. Without concerted government action, individuals continue to suffer the effects of discrimination for longer than is tolerable or necessary. In October 1984, the Report of the Royal Commission on Equality in Employment called for a “massive policy response to systemic discrimination”.<sup>9</sup>

Secondly, as the Saskatchewan Action Committee on the Status of Women reminded Commissioners, the issue of equality is one which the whole of society must address:

*The women's question . . . is one that needs to be addressed by all of us, not just women . . .*

*Women's issues, which basically are concerned with how we can operate on a basis of equality and independence in all aspects of society, have to be taken seriously, and it is our belief that this calls for nothing less than the restructuring of society, so that women, as society's largest minority, will have a chance to participate.*

(Saskatchewan Action Committee on the Status of Women, Regina, Transcript, November 24, 1983 [vol. 5], pp. 10770-71.)

Failure to intervene can be regarded as tacit confirmation by government, and therefore by society as a whole, that we accept the existing patterns of discrimination. As the Abella Report argues:

*If we do not act positively to remove barriers, we wait indefinitely for them to be removed. This would mean that we are prepared in the interim to tolerate prejudice and discrimination. By not acting, we unfairly ignore how inherently*

*invalid the exclusionary distinctions are, and we signal our acceptance as a society that stereotypical attributes assigned to these... groups are appropriate justifications for their disproportionate disadvantages.*<sup>10</sup>

Finally, if groups or individuals have been disadvantaged in the past, it is not possible to make them equal simply by removing obstacles. For example, when the "separate but equal" doctrine relating to race and education facilities was declared an infringement of equal-protection guarantees in the United States, it did not immediately put Blacks on an equal footing. Years of discrimination, resulting in inferior education, meant that Blacks, on average, could not meet many job standards which were based on "white" educational norms.

The Canadian constitutional guarantee of equal protection of the law, combined with the affirmative action provision, allows governments to intervene against systemic discrimination. Section 15(2) of the Charter can serve as a mechanism by which governments can promote equality. In the first instance, such programs would have effect in the public service and throughout "government", as provided in the Charter's application section.

Although affirmative action is an appropriate means to combat many forms of systemic discrimination, we Commissioners do not wish to imply that it is a panacea for all disadvantaged persons. Affirmative action, as our review in the context of social security (Part V) indicated, is also not without costs to society.

It remains essential to retain and improve measures to equalize opportunities within, as well as among groups. For this reason, affirmative action proposals in labour markets are often accompanied by proposals to improve access to training and employment for the most disadvantaged members of a given sub-group.

A related policy difficulty is defining the disadvantaged group. Statistical categories can be very misleading. "Visible minority" may be one such category. Recent research indicates that on many scores—education, income, mobility, standards of living—there is a great variation among groups defined as "visible minorities". For example, male Filipinos (60 per cent) and Koreans (57 per cent) are much more likely to have attended college or university than Blacks (26 per cent) or Natives (17 per cent). Similarly, in 1980, the salary range of "visible minorities" varied widely: Canadian-born male university graduates of Japanese origin were likely to earn an average salary of \$28 202 and their Chinese counterparts a comparable \$24 370, in contrast to Canadian-born male university graduates of Indo-Pakistani origin whose average salary was \$13 186. These data suggest that programs which do not distinguish among "visible minority" groups may not be directing benefits towards those who need them most.<sup>11</sup>

A further serious drawback to affirmative action—one that must continuously be weighed in the minds of legislators who introduce such programs—is that in favouring one group, they discriminate against another. The Charter permits this discrimination, and Commissioners believe that when a community decides to rectify the situation of its disadvantaged members, it is appropriate that such actions not be barred by the Constitu-

tion. Constitutional permission does not, however, resolve the difficult moral issue that must be faced: Does the desire for group-based equality of results justify the inevitable interference with individual equality of opportunity?

In some situations, systemic discrimination warrants the use of techniques such as affirmative action. Above all, however, Canada is a society committed to individual equality of opportunity. Short-term programs that interfere with this principle are acceptable only because Canadians believe that in the longer run, they contribute to genuine equality of opportunity for all citizens.

This Commission agrees that circumstances exist where inequalities are directly related to membership in some identifiable group within Canadian society. In such circumstances, steps can and should be taken to ameliorate the general conditions of inequality. We wish to emphasize, however, that equality ultimately applies to individual Canadians. The main redress for inequalities and the major emphasis on ensuring equality of opportunities for all Canadians should therefore be through government action in support of the individual as such, and not because he or she is a member of some particular group.

## Notes

1. *Bliss v. Attorney General of Canada* [1979] 1 S.C.R. 183.
2. Métis and Non-Status Indians Constitutional Review Commission, *Native People and the Constitution of Canada* (Ottawa: Mutual Press, 1981), p. 2.
3. For example, Douglas Sanders, "The Rights of the Aboriginal Peoples of Canada", *Canadian Bar Review* 61 (March 1983), pp. 326–27.
4. For a more complete discussion, see Roger Gibbins and J. Rick Ponting, "An Assessment of the Probable Impact of Aboriginal Self-Government in Canada", in *The Politics of Gender, Ethnicity and Language in Canada*, vol. 34, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).
5. Canada, Royal Commission on Equality in Employment, *Report* (Ottawa: Minister of Supply and Services Canada, 1984).
6. Canada, House of Commons, Special Committee on Visible Minorities in Canadian Society, *Equality Now* (Ottawa: Queen's Printer, 1980).
7. Canada, House of Commons, Special Committee on the Disabled and the Handicapped, *Obstacles* (Ottawa: The Committee, 1981).
8. Canada, Public Service Commission, *A Report on Equal Opportunity Initiatives – PSC and Departments* (Ottawa, no date), Annex 1.
9. Royal Commission on Equality in Employment, *Report*, p. 254.
10. *Ibid.*, p. 5.
11. For more discussion, see the argument of Conrad Winn, "Affirmative Action and Visible Minorities: Eight Premises in Quest of Evidence", forthcoming in *Canadian Public Policy*, from which the data on visible minorities are taken.



## **The Supreme Court of Canada and the Constitution: Institutional Implications**

The Supreme Court of Canada faces demands on its decision-making capacity because of the federal character of our country, differing views on the limits of public action, the evolution of private law, and the introduction of the Canadian Charter of Rights and Freedoms.<sup>1</sup> A number of analysts believe that under the Charter, more policy decisions will be made by Canadian courts. Some, indeed, speak of the “politicization” of the judicial process, and suggest that we should anticipate its continuation. This process partly reflects the gradual “legalization” of society, for since the Second World War, more and more issues which have been drawn into the arena of public debate and conflict find their way to the courts for judicial resolution.

The demands made on the Supreme Court have implications for the structure and design of the judiciary. Commissioners do not believe that the institutional issues of the judiciary are a major national priority for reform. They are important, however, particularly as the role of the Court is seen to be expanding. In our brief review of the major issues, Commissioners wish to underline the need to be sensitive to the character of the judicial process and to the particular responsibilities of courts in our overall institutional framework.

### **Federalism, the Charter and the Composition of the Supreme Court**

Conflicting views about the nature of Canadian society have often focused on the judicial process. Canadian federalism, involving two orders of responsible parliamentary government with overlapping jurisdictions, imposes on the Supreme Court of Canada obligations to decide constitutional matters. The abolition of civil appeals to the Judicial Committee of the Privy Council (JCPC), in 1949, meant the replacement of an external umpire by a Canadian tribunal appointed in accordance with a statute of the Parliament of Canada. At that point the Supreme Court assumed final responsibility for Canadian constitutional interpretation.

In the 1950s and 1960s, little constitutional conflict arose over the division of powers. In the 1970s, however, heightened intergovernmental conflict and increased reliance on regulatory powers greatly increased the volume of constitutional cases before the Court. Governments sought final resolutions or enhanced bargaining power, and private litigants tried to use the distribution of powers to constrain state intervention. On contentious matters, such as energy and constitutional reform, the Court's decisions have been of the highest importance. Inevitably, some observers have expressed concern about the legitimacy of the Court as a federal-provincial umpire. Could a court nominated by one order of government, they demanded, function as an impartial tribunal in division-of-power cases? Though studies of the Court's judgments since 1949 suggest that it has performed this difficult role in a balanced and sensitive manner, concerns of legitimacy continue to arise.

The Court's function in the federal system has given rise to various reform proposals, usually centred on the appointment process, and on the size and composition of the Court from the perspective of representation.

Regional representation was at the heart of most recent recommendations until the Charter of Rights brought new representational claims. At any given time since 1949, the Court has had no justices from five of the provinces and none from either territory. Since 1949, the Court has never included a judge from Newfoundland or Prince Edward Island, and for several decades did not include a judge from British Columbia.

Commentators have put forward claims for extended or more secure regional representation on the Supreme Court. If judges are selected from across Canada, the Court is more likely to be responsive to conditions and developments throughout the country. This argument supposes that a judge's connection with the law of a province or with regional conditions endues him or her with special knowledge of that region or province. This argument is an extension of concerns expressed by Canadians before 1949, when the JCPC in London served as the final court of appeal for Canadian law, including constitutional law. Such a regional pattern of judicial selection might better reflect the federal character of the Canadian Constitution and, it is argued, enhance the acceptability of decisions. Advocacy of this nature has been particularly extensive in recent years as a number of constitutional decisions of great significance to Canadian federalism have been placed in the hands of judges.

The suggestion that regional variations among the judges are important often meets with the reply that this regional quality is difficult to discern and even more difficult to bring to bear on the Court's decision making. Some observers have also criticized the suggestion because it takes no account of the differences within regions. British Columbians may wonder why, for Supreme Court purposes, they have been consigned to the same region as Alberta, Manitoba and Saskatchewan. Newfoundland does not have the same legislative, political, social or legal history as any of the Maritime provinces, yet most regionally oriented proposals would cluster all four provinces together for the purpose of selecting a judge. If geography and knowledge of local conditions actually are important factors in judicial decision making, then perhaps the appointments of justices from Quebec and Ontario should be geographically distributed throughout those two vast and internally diverse provinces. Perhaps members of the bench and bar from outside Toronto and Ottawa or Montreal and Quebec City, should be allocated seats on the Supreme Court bench.

Besides discounting intra-provincial differences, the regionalist approach to judicial appointments also tends to ignore judicial independence. The late Chief Justice Bora Laskin once remarked:

*It saddened me that there was so little understanding manifested either about the nature of the Court's work or about the significance of the fidelity of its members to their oaths of office, so little appreciation of the importance of cohesion and collegiality in the dispatch of the Court's work. That work has no regional and, certainly, no political tie-in.<sup>2</sup>*

The Supreme Court deals “with national issues, with matters of general public importance that have no special regional connotation.” The Court is a national institution, yet in a different sense from the Senate or the federal executive, upon whose actions it may sometimes be required to pass judgment. Furthermore, the argument in favour of emphasizing regional considerations in appointments may be weakened if the Court’s role in deciding division-of-powers cases declines relative to its other responsibilities.

This Commission supports a view recently advanced by a leading student of the judicial process:

*When we consider both the issues which the Supreme Court is called upon to decide as well as the nature of the adjudicative process, it is difficult to accept that the representation of regional interests either could be or should be prominent in the work of the Supreme Court. It seems very doubtful that there is a Western, or Atlantic or Ontario or Quebec position which must be articulated in the Court’s deliberations if it is to make sound decisions on the subjects that are coming to dominate the Court’s docket—namely, review of the federal administrative process, the interpretation of the Criminal Code and other federal statutes and disputes arising under the Constitution, including the Charter of Rights and the division of powers.<sup>3</sup>*

As the Canadian Bar Association Committee on the Constitution has pointed out, “A court is not a board of arbitration. It is a judicial body.”<sup>4</sup> The members of the Supreme Court of Canada do not perform representative functions in the Canadian institutional and constitutional system. Judicial merit alone is the criterion by which the Court’s membership and performance should be assessed. Accordingly, Commissioners reject arguments that the composition of the Supreme Court should be regionally representative. Existing provision in the Supreme Court Act for the appointment of Quebec members is based on the distinctive legal traditions of that province, and should be maintained.

Until recently, the Supreme Court’s constitutional cases largely consisted of disputes or references about federal and provincial legislative jurisdiction. It was primarily in this context that relations between citizens and the state were adjudicated, although the Court did consider individual cases in relation to the Canadian Bill of Rights. The rise of Charter litigation will probably increase the number of cases involving citizen/state relations. In terms of successful motions for leave to appeal, Charter cases are already outnumbering other constitutional cases. This situation may give rise to new types of representational claims based on the social and economic characteristics of judges. Commissioners also reject these criteria for the selection of Supreme Court judges.

## **The Supreme Court Appointment Process**

The process of appointment to the Supreme Court is frequently confused with the representation issue. That is, those who regard the Supreme Court as a representative body—a view Commissioners reject—also expect the appointment process to be representational. As new representational claims



are made, the appointment process is likely to emerge again as a subject of public concern. We attribute the current relative lack of interest in this issue, which was observable in our hearings, to the high quality of appointments that have been made under existing procedures. Whatever new process may be adopted—and we see no urgent need to replace the current arrangements—the judicial merit of appointees should remain the central criterion.

The chief issue in the appointments process is the perception that it does not adequately involve the constituencies of our political system. Although the existing informal procedures which the Prime Minister follows before he makes appointments to the Supreme Court do involve extensive discussions, some Canadians consider that they take too little account of concerned interests or advice. Numerous options have been put forward.

The *Report* of the Royal Commission on Constitutional Problems<sup>5</sup> (the Tremblay Commission), published in 1956, suggested that provinces should participate in the nomination of Supreme Court judges. The Victoria Charter proposals of 1971 contained a complex formula for securing the agreement of federal and provincial authorities concerning any appointment to the Court. It was recommended that the Attorney-General of Canada consult the Attorney-General of the province with which a potential appointee has the closest connection. If the two failed to agree on an appointee, the Minister of Justice would propose establishment of a nominating council; the choice among possible forms of this council would rest with the provincial Attorney-General. The body would consist primarily of the chief federal and provincial law officers or their nominees. The federal Minister of Justice would submit at least three names to the Council, from which it would make a recommendation. The Special Joint Committee on the Constitution in 1972 endorsed the consultative method set forth in the Victoria Charter, but questioned its failure to allow the provinces to nominate candidates.

Some of Canada's legal scholars favour a form of consultation or collaboration, such as a permanent nominating commission to be used, not just for the Supreme Court of Canada, but for all superior court appointments. The commission could consist of Members of Parliament and of provincial legislatures, representing all political parties, and including non-lawyers. It would maintain a list of suitable prospective appointees from which the appointing authority would choose appointees.

The Constitutional Amendment Bill, proposed in 1978, embodied the proposals of the Victoria Charter and took them one step further. It provided that after the Attorney-General of Canada and the provincial Attorney-General had agreed, or after the nominating council had broken the deadlock over an appointment, the nomination would then be submitted for ratification to a new "House of the Federation" which would replace the existing Senate and would be more representative of our federal diversities. The House would be required to affirm or reject the nomination within a limited time.

Ratification of Supreme Court appointments by a reconstituted upper house gained adherents during the constitutional debate of the 1970s. The Government of British Columbia favoured nomination by the federal government, after consultation with the provinces, and ratification by a reformed Senate. The Canadian Bar Association Committee on the

Constitution, the Pépin-Robarts Task Force on Canadian Unity,<sup>6</sup> and the Beige Paper of the Quebec Liberal Party<sup>7</sup> have made similar proposals.

An Alberta proposal specified that only the provincial governments would suggest appointees to the special constitutional panel it proposed. The Pépin-Robarts Report recommended that the federal Cabinet be required to consult with Quebec's Attorney-General before filling a civil-law vacancy. Where a common-law vacancy occurs, the Cabinet would consult all other nine provincial Attorney-Generals about possible appointees. The variety of suggested reforms is large, but all assume consultation or negotiation with a provincial Attorney-General or provincial representation in a reformed national upper house.

As Charter cases come forward in greater numbers, Commissioners would expect proposals for appointment procedures based on social and economic grounds, just as earlier proposals advocated intergovernmental arrangements. Because the Supreme Court adjudicates cultural, economic and social issues, new methods of selection might assess all "relevant" qualities of a potential appointee. In a research paper prepared for this Commission,<sup>8</sup> the authors discuss the possibility of an Appointing Council that would survey likely candidates and decide who should be named to the Court. Ideally, the Council's members would be diverse in vocational background, age, economic and social status, ideological orientation and racial, ethnic and regional origin. Instead of choosing judges according to region or other sociological criteria, the Appointing Council itself could reflect a cross-section of Canada. Partisan and regional considerations would arise at the time of selecting the members of the Appointing Council, rather than at the stage of judicial appointment. Commissioners are unconvinced, however, that such drastic reform is needed.

The appointment process is inherently political in the broad institutional sense. Measures to shift responsibility from the Prime Minister to some designated group or institution necessarily involve replacing one political process with another. Consistent with our view of the role of Parliament, Commissioners believe that if revised arrangements are to supplement the existing political process of consultation through the Prime Minister, the modified process should involve Parliament and should be equally broad. The elected Senate we have recommended would be an appropriate body to perform the ratification function in a rearranged appointment process. An elected Senate would be both broadly representative and regionally sensitive and thus would largely meet the traditional concerns of the provinces and the socio-economic concerns emerging from the Charter of Rights and Freedoms.

## **Constitutional Status**

While the Supreme Court has some degree of constitutional recognition, as set out in sections 41 and 42 of the Constitution Act, 1982, and in section 101 of the Constitution Act, 1867, it is a matter of controversy whether it is entrenched to the degree that changes in its fundamental features require action by both orders of government. There are several arguments supporting

its more definite constitutional entrenchment. Some Canadians consider it inappropriate that the Court which adjudicates on the division of powers in the federal system is a statutory creation of the federal government. However impartial the Court's record, critics insist, its image of neutrality should be strengthened. Moreover, with the Charter only recently in place, we Canadians should ensure that nothing can block or obstruct judicial power to protect citizens' rights against unconstitutional government action. Constitutional status for the Court would confirm and safeguard its symbolic importance as defender of essential values in Canadian society.

Commissioners recommend explicit entrenchment in the Constitution of the status of the Supreme Court of Canada and, in particular, of its independence, although we believe it inappropriate to remove responsibility for the administration of the Court from the federal government.

## Notes

1. See A. Wayne MacKay and Richard W. Bauman, "The Supreme Court of Canada: Reform Implications for an Emerging National Institution", in *The Courts and the Charter*, vol. 58, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).
2. B. Laskin, "What Everyone Should Know About the Supreme Court of Canada", address to the Empire Club, Toronto, March 12, 1981.
3. Peter H. Russell, "Constitutional Reform of the Judicial Branch: Symbolic vs Operational Considerations", *Canadian Journal of Political Science* 17 (June 1984), pp. 237-38.
4. Canadian Bar Association, Committee on the Constitution, *Towards a New Canada* (Montreal: Canadian Bar Foundation, 1978), p. 60.
5. Quebec, Royal Commission on Constitutional Problems, *Report* (Quebec: Éditeur officiel du Québec, 1956).
6. Canada, Task Force on Canadian Unity, *Report* (Ottawa: Minister of Supply and Services Canada, 1979).
7. The Constitution Committee of the Quebec Liberal Party, *A New Canadian Federation* (Quebec, 1980).
8. MacKay and Bauman, "The Supreme Court of Canada".







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# Canada's Constitutional System and Unresolved Community Issues

## Introduction

The political answer to the complex question of our identity as a people has never been static; nor have Canadians reached agreement in this matter. Yet governments, through institutional and legislative changes, must represent and respond to the pluralism of Canadian society even as the components of that pluralism shift in response to factors, often international, over which governments have little control. In 1985 there are pressing community issues on our agenda, several of which Commissioners consider below, together with proposed reforms.

Commissioners intend these reforms to produce a closer fit between the social dimensions of community and the institutional arrangements that express and incorporate them. The way we govern ourselves must reflect the national and provincial communities and the ever-emerging social cleavages within them. The reforms we propose reflect our understanding of the existence of a single Canadian people. A common citizenship brings together people divided by language, ethnicity, sex, province, life-style, income and other sources of diversity. We would like to help encompass these many groups in an institutional framework that does not smother distinctions or stifle conflict, but that does facilitate co-operation and the recognition that Canadians are one people.

The Constitution Act, 1982, with its Charter of Rights, its amending formula and its natural resources clause, was a compromise influenced, notably in the case of the Charter, by citizens' input. Although the Government of Quebec was not a signatory to the agreement that led to the Constitution Act, the Act's provisions are applicable to, and judicially enforceable in, that province. The Government of Quebec, the province that is home for over 80 per cent of French Canadians, does not view the Act as a legitimate part of the Constitution. Its concerns involve both the Charter and

the amending formula. Other political forces in Quebec share these concerns in modified ways. The ground of division, therefore, is not going to go away.

Patriation and the Constitution Act are, accordingly, incomplete achievements. Quebec's unwillingness to agree to the constitutional changes recently introduced is the major unresolved community issue in Canada today. Given the apparent decline in "nationalism" in Quebec, Commissioners suggest that a sympathetic and sensitive response to the province might lead to constitutional *rapprochement*, and we make proposals with the intent of achieving that objective.

In general, the harmonious co-existence of French- and English-speaking Canadians, which would include appropriate institutional and constitutional recognition, requires effort at three levels. First, there must be recognition of the essential role played by the Government of Quebec in cultivating a flourishing French-speaking majority population. Secondly, the national government must reflect Canada's linguistic duality in its overall operations. Thirdly, Canada as a whole, in both its national and its provincial dimensions, must be responsive to, and supportive of, the official-language minorities, francophone outside Quebec and anglophone within.

In addition to institutional questions relating to Quebec and to French-speaking Canadians, other institutional questions arise that relate to Canada's northern territories, to aboriginal self-government and to municipalities. Several significant proposals for change in the organization and structure of governments in Northern Canada have been under consideration for some time. It is appropriate, in Commissioners' view, to encourage the continuation of the processes that are presently under way, with the intent of bringing the governmental arrangements of the Northern territories more into line with practices across the rest of Canada; at the same time, Canadians should implement measures that are sensitive to the distinctive social, economic and cultural features of the region.

In the matter of aboriginal self-government, Commissioners support the introduction of measures to increase the influence and control exercised by Native peoples over their social and economic affairs. This objective is based on the distinctive place aboriginals hold in Canadian society as the first peoples of Canada, and on the constitutional recognition which they now enjoy. It is by no means clear, however, that the implications and consequences of aboriginal self-government as they might affect Canada's overall governing arrangements have been examined with sufficient care. Indeed, there are several areas where further reflection is required.

Canada's local government arrangements vary significantly across the land. This diversity corresponds to differences in size and financial resources and to the fact that local government is constitutionally the responsibility of the provinces. Commissioners note, nevertheless, significant developments in the size, complexity and responsibility of local governments, and we believe that there are a number of measures to consider that would strengthen the capacity of municipalities to make the fullest contribution possible to Canadian society and economic development.

## The Place of Quebec in Confederation

Since the beginning of the 1960s, the debate about Quebec's place in Confederation has given rise to considerable discussion in Canada. It is not surprising, therefore, that following the 1980 referendum and set against a backdrop of economic crisis, some Canadians concluded that the dispute had monopolized too much time, and that it should be set aside in favour of the study of other important questions of interest to all Canadians. In fact, with the coming into force of the Constitution Act, 1982, the argument about Quebec faded so far into the background that some Canadians concluded that the problem could solve itself, given an active policy which guaranteed each and every citizen equal linguistic rights. Later attempts to revive the debate seemed not only futile, but also hazardous. Yet, in a matter of a few years, the issue of Quebec's place in Confederation was back on the constitutional agenda. Indeed, circumstances had seldom seemed more propitious for the issue's resolution. The Government of Quebec and the federal government have clearly stated that they wish to reach an agreement. In addition, some provincial premiers have indicated their support for such an initiative. Such demonstrations of good will, while they do not reduce the complexity of the problems involved, at least offer hope that in the near future, a decisive step in the right direction may be taken.

### Quebec as a Distinct Society

In order to reach a lasting agreement between Quebec and Canada, one which ensures Quebec's place in Confederation and contributes both to the prosperity of the province and to that of the country as a whole, it is essential from the outset to go beyond the traditional clichés about the unique nature of Quebec. In this way, a realistic interpretation will emerge of the facts which apply to Quebec in 1985. However, two specific pitfalls must be avoided. The first mistake would be to seek a cultural homogeneity which embodies Quebec's distinctiveness: if such homogeneity ever existed, it is certainly no longer characteristic of the province. The second error would be to overlook the collective aspect of the Quebec issue and to view it as a straightforward question of individual rights which could be exercised everywhere in Canada. Since the matter concerns living, working and thriving in a mother tongue, the collective dimension is not to be underestimated.

The period between the beginning of the 1950s and the present has witnessed a fundamental transformation of Quebec society; indeed, a comparison of the report of the Quebec Royal Commission on Constitutional Problems (the 1956 Tremblay Report) and its description of Quebec society with the present reality creates the impression of two entirely different worlds. In 1956, the Tremblay Report described a Quebec which was culturally distinct and essentially rural, and which was characterized by its regard for religious values, its opposition to economic materialism, and its fundamental political conservatism, that is, its opposition to the development of the machinery of government. Behind this facade, however, ideas were



evolving which had not yet attracted a great deal of attention. Various groups and movements were questioning the traditional concept of authority, debating the secularization of the state, and, most notably, considering new economic, social and cultural trends. The end of the Duplessis era and the advent of the 1960s saw the introduction of a major change in Quebec, which took the rest of Canada by surprise: the old structure was crumbling; the traditional power of the clergy was rapidly becoming a thing of the past; and the state was emerging as an instrument of social and economic reform. Quebecers continued to develop and to refine this new instrument up to the beginning of the 1980s: the education system was overhauled; the social security system was thoroughly reviewed; and a pension regime was introduced. Several provincial Crown corporations were established, notably in the economic sector; and, finally, various measures were adopted which had been designed to open Quebec to external influences. The unprecedented defence and recognition of bureaucratic and political machinery as a significant element in the reinforcement of Quebec nationalism were also to give rise to repeated requests for greater provincial constitutional powers.

At the beginning of the 1980s, however, and after the referendum on Quebec's sovereignty, a new situation developed. In the public sector, on the one hand, escalation of the political debate between Quebec and the federal government was blocked. To the extent that Quebec's independence, hypothetical though it was, was set aside as an objective, the ongoing debate about Quebec came to centre on the province remaining in Confederation. Moreover, the apparatus of provincial government was being perceived in a new light: increasingly cumbersome and costly, it was no longer seen as the sole instrument of development for Quebec society. In these circumstances, the quest for expanded constitutional powers abated to some extent, especially since it was quite difficult to exercise fully powers which had already been recognized. On the other hand, and in tandem with these political changes, a new attitude developed concerning the role of the private sector in the economy. Spurred by the increasing number of francophone entrepreneurs making their mark in the traditionally anglophone business world, Quebecers discovered a new interest in business: the old demon of materialism had been exorcised. Indeed, in 1985, nearly 40 per cent of all students seeking Masters' degrees in Business Administration at Canadian universities are Quebecers.

Throughout this period, moreover, the self-image of Quebecers and the social reality of the province underwent substantial changes. Those who had previously described themselves as "French Canadians" took to defining themselves, with increasing frequency, as "Quebecers". A new nationalism appeared, which was less preoccupied with survival, increasingly forward looking, and fundamentally linked to the territory of Quebec. When the Parti québécois came to power, this new nationalism was hailed as the manifestation of the vitality of a society which had at last discovered its identity. Paradoxically, however, the more the provincial government sought the support of a majority of all Quebecers, the clearer it became that ethnic origin could not be the corner-stone of the new nationalism. Indeed, Quebec culture, deeply influenced by common historical experience, has been losing its homogeneity little by little as increasing numbers of immigrants settle in

the province. Moreover, it has been evolving along with Quebec political life, to which it is indissolubly linked. Thus, during the 1960s and 1970s, Quebec culture was oriented around the assertion of a new collective identity. With the arrival of the 1980s, not only has the province's culture become more open and pluralistic but, in the opinion of some observers, its very existence is threatened by the overwhelming influence of American culture. In fact, Quebec's culture has evolved and adapted. Formerly, Quebec defined itself in terms of its opposition to English Canadian culture; increasingly linked to language rather than to ethnic origin, however, the province now seeks a new identity in the North American and international settings.

Another significant change occurred when the position of Quebec's anglophone minority was eroded within a 20-year period by the Quebec government's increased involvement in the linguistic sphere. Quebec anglophones—economically powerful, politically influential and solidly entrenched on the basis of a network of well-developed institutions largely under their control—had traditionally identified themselves as part of the Canadian majority. However, they gradually came to recognize their minority status within the province of Quebec. Moreover, the exodus from Quebec of a considerable number of anglophones, because of the combined effects of Bill 101 and the economic recession, contributed to the further weakening of the position of this minority. Such a trend was not, in fact, new: Quebec's anglophone population, standing, in 1981, at approximately 11 to 12.5 per cent of its total residents, has been constantly decreasing for a hundred years. At the turn of the century, for example, the population of Quebec City, the Eastern Townships and certain rural districts had included substantial anglophone minorities; but the numbers of these minorities have decreased over the years. What is new is the acceleration of this trend: between 1971 and 1981, there was a decrease of 10 per cent in the anglophone population of the province, which is now largely concentrated in the city of Montreal.

At the beginning of the 1980s, the anglophone minority sensed that its survival in Quebec was threatened in much the same way that francophones had perceived that their survival was threatened 20 years before. Quite soon, however, a new consciousness of its affiliation to Quebec appeared. On the anglophone minority's conviction that it had contributed to the province's development in the past was superimposed the awareness of a new role to be played and of added responsibilities to be assumed. Increasingly bilingual and influenced by organizations such as Alliance Quebec, the anglophone minority defined its new identity in Quebec, thus contributing to the transformation of Quebec society as a whole. A new image of Montreal gradually emerged: that of a city with a majority francophone population, but also a multi-ethnic and bilingual city, rich in its diversity, vigorous in its culture and economy, and open to the world.

Nevertheless, some problems remain unsolved. Bill 101 in particular, to the extent that it projects the image of a unilingual Quebec, is the object of repeated attacks by the anglophone minority. The members of this group will not accept second-class status. Under the terms of the Constitution Act, 1867, the province is officially bilingual with respect to its legislative and judicial institutions. That stipulation does not make either Quebec's refusal to

recognize English as an official language in the province or the restrictions imposed on the use of English in the sphere of communications more acceptable to the anglophone minority. The very severity of some of their attacks on Bill 101 is worrying and, unfortunately, is sometimes perceived as an indication that what is sought is a return to the situation which existed prior to 1960. In the changing Quebec of the 1980s, reciprocal trust has perhaps begun to emerge between the francophone majority and the anglophone minority, but it must become more firmly established.

In view of all these changes, Canadians may well wonder what is left of Quebec's uniqueness. To answer this question, we must return to basics. At the outset, Quebec's chief characteristic is the presence within its boundaries of a majority francophone population which controls and determines the orientation of its political and social institutions. The fact of the majority status of francophones in Quebec as compared to their minority status outside that province is fundamental. As the editor of *Le Devoir* wrote recently, "If it is true that the Canadian duality transcends geographic boundaries, it is equally true that it would lose all its meaning if Quebec were to disappear tomorrow."<sup>1</sup> Behind this observation, however, lies a still more basic reality which defines the very essence of Quebec society. As the principal, though not the exclusive, centre of politically structured French life in Canada, Quebec society remains fundamentally and linguistically isolated, an island of French life in the anglophone mainstream. Once outside Quebec, living and working in French and, in more general terms, flourishing in French, becomes difficult, except in some parts of New Brunswick and Ontario which border Quebec. This difficulty continues, despite the significant progress in the provision of bilingual education and public service realized during recent years. A Statistics Canada study based on final census data for 1981 has recently confirmed some researchers' conclusions that the French language is losing ground everywhere in Canada with the exception of Quebec.<sup>2</sup>

Because of its isolation, Quebec is unavoidably committed to never-ending negotiations and accommodations with its external environment. For nearly two centuries, Quebec dealt with the world around it by turning inward and rejecting external values. More recently, following the Quiet Revolution, a new basis for accommodation was set out in the sovereignty-association proposal of the Parti québécois. Considered too radical by a majority of citizens, this proposal was rejected in favour of a kind of renewed federalism with the rest of Canada. This development, however, has not materialized. As a result, Quebec remains constitutionally isolated, in the sense that the provincial government has not yet accepted the 1982 constitutional accord. It is encouraging that the recent *rapprochement* between Quebec and the federal government indicates a mutual desire to end this isolation.

The arrangement which is likely to be worked out will be especially important from a symbolic point of view. As a response to Quebecers' clear expression of their wish to associate with the rest of Canada, as indicated in the 1980 referendum, the new compromise will be all the more meaningful if constitutional recognition is given to the counterpoint of Quebec's uniqueness and its right to retain its differences. Above and beyond this recognition of the distinctive nature of Quebec society, it is the existence of the whole



francophone community, in other words, of Canada's basic duality, which is at stake. Notwithstanding such recognition, the fundamental linguistic isolation of this community will endure. The essential question for Quebec and for francophones outside Quebec will remain unchanged: How can the French element of our populations retain its identity in North America? If a satisfactory answer is to be worked out, some important problems will have to be resolved in practice. If, for example, Quebec's economy does not provide the opportunities for employment which francophones need in order to thrive in their language, if the francophone intellectual contribution finds no outlet outside of Quebec, and if the efforts of Quebec to develop economic and cultural links with the outside world are discouraged, then Quebec society, confined as it is, will be in danger of stagnation. The recognition of Quebec's unique character and of Canada's dualistic nature, however, constitutes an affirmation that with the support of the rest of Canada, solutions to these problems can be found. Above all, both Quebecers and francophones outside of Quebec must themselves, individually and collectively, find these answers in the economic and cultural spheres. The new element will be that this search for answers will take place in a context of recognition and affirmation of the cultural complementarity which is, after all, at the heart of the Canadian experience.

There is, therefore, an unforeseen opportunity to conclude a new agreement between Quebec and the rest of Canada. At the outset, what is required in principle is a statement in the preamble of the Constitution which might be worded along the following lines:

*Recognizing the distinctive character of Quebec society as the principal though not the exclusive centre for Canadian francophones and accepting as fundamental the duality of the Canadian federation . . .*

At the time of the 1980 constitutional negotiations, participants in intensive discussions on this subject came close to reaching consensus. Commissioners believe that in 1985, on the basis of a text such as the one we have just suggested, such an agreement could be reached quickly enough.

Thereafter, the problems arising from Quebec's distinctive character could be considered. Precisely because they are specific to Quebec and interest the rest of Canada only indirectly, their solution would not, for the most part, necessitate constitutional changes. Some problems could be adequately dealt with through intergovernmental agreements, others through delegation of power. The compilation of a complete list would be impossible, as new problems continue to arise. However, one issue which Canadians must address without delay and in some detail is that of fundamental guarantees, since it relates directly to the constitutional agreement of 1982.

## **Fundamental Guarantees**

When the Constitution Act, 1982 came into force, Quebec once again found itself in the position of saying no to the rest of Canada. This resistance, however, unlike Quebec's earlier opposition to the Fulton-Favreau formula and to the Victoria Charter, did not result in an escalation of the debate with

the rest of Canada, for the ultimate threat, that of independence, had been dissipated two years earlier. From that time on, the issue of the recovery of the right of veto in Quebec, or rather of the concession of a right of veto (for the right which the province believed it had was denied by the Supreme Court several months later), became an essential condition for the resumption of the dialogue. For a minority group within the Canadian collectivity—as Quebecers were frequently told they were—the possibility of saying no and of exercising a veto inevitably assumes fundamental significance in the face of the firm will of the majority. It should not be surprising that this issue recurs. Deeply rooted in Quebec's political culture, the veto right effectively provides the guarantee that basic foundations will not be undermined.

Clearly, however, to revive discussion of the right of veto is not an easy matter. At the end of 1982 and the beginning of 1983, the possibility of guaranteeing a right of veto for Quebec had been considered, but it had to be set aside when some provinces expressed reservations about the resumption of negotiations on this subject. No doubt it was still too early to initiate such a discussion. With the perspective of several years, however, and with the benefit of a clearer appreciation of the necessity for resolving the issue of Quebec's adherence to the Constitution Act, 1982, to disentangle the elements of viable solutions certainly no longer appears to be an impossible undertaking.

The ultimate goal would be to act so that in the future, Quebec would not have a constitutional amendment imposed upon it which would, in its view, affect its essential interests as a distinct society. To accomplish this objective, two approaches are possible. The first is that of the right of veto as such, which permits a province to block the general adoption of a constitutional amendment. The second is the right to opt out, which does not preclude the adoption of an amendment; rather, it shelters those provinces which exercise the right to opt out from the effects of that amendment. It is widely believed, however, that in order for the opting out provision to be perceived as the equivalent of the right of veto, the former provision must entail full compensation for supplementary costs incurred. Such costs will differ according to circumstances and will often prove difficult to estimate. It cannot be claimed, for example, that a province which refuses to relinquish an element of its jurisdiction will assume new costs directly; rather, the penalty will result from the fact that citizens in the province will eventually find that they are being taxed for federal services which are not being provided there. On the other hand, where a straightforward regulatory power is relinquished, these costs may be insignificant as, for example, in the hypothetical case where an amendment grants the federal Parliament the exclusive right to incorporate companies or to establish safety standards applicable to consumer goods. The current amending formula recognizes the right to opt out with compensation when provincial legislative responsibilities in the fields of "education and other cultural matters" are transferred to Parliament. In effect, Quebec has the equivalent of a veto in these spheres. It remains to be seen whether the same formula can be extended to other jurisdictional sectors which devolve on the provinces from the Constitution. To respond adequately

to this question, however, we must first consider the advantages and disadvantages of adopting such a course.

The main advantage of a general right of opting out with full compensation is found in the formula's marked flexibility. Those provinces which favour a constitutional amendment, provided that there are enough of them, can achieve their goal without interference from those which disagree. The latter group can express its opposition without being penalized for doing so. Moreover, the formula respects the principle of the equality of provinces, each of which has the right to opt out. However, it also has disadvantages which are far from insignificant. In particular, it entails the very real risk of a proliferation of special status arrangements. This danger is inherent even in the current formula, which provides the right to opt out without compensation; extension of that formula to include an entitlement to generalized compensation obviously entails a greater risk. Having said this, we should not overestimate the risk. Constitutional amendments requiring a transfer of jurisdiction from provincial legislatures to Parliament are still quite rare, and, in the last resort, the federal government is always entitled to delay presentation of an amendment until it is certain of the support of the majority of provinces. Another difficulty arising from this formula is that it requires negotiation on the extent of compensation; in the case of disagreement, we might assume that for the time being, the federal government's offer would prevail unless the matter is eventually appealed to the courts. In other respects, it is possible that the exercise of the right to opt out would, in certain circumstances, have practically the same effect as a right of veto. This would apply especially where the objective was to find a uniform solution for the whole of Canada. Finally, it should be stressed that the formula of opting-out with full compensation would not apply to amendments affecting national institutions; the Constitution Act, 1982 explicitly precludes the right of opting out in such instances. Bearing in mind these factors, it may now be interesting to consider whether a right of veto as such meets Quebec's need for protection in a more satisfactory manner.

Like the possibility of opting-out, that of the right of veto presents both advantages and disadvantages. Since the right of veto leads directly to the rejection of a proposed amendment, it can in no sense result in a proliferation of special status. Moreover, if this right of veto were granted on a broader basis, as in the Victoria Charter formula, no exclusive advantage would accrue to Quebec. The Victoria formula required the agreement, not only of a majority of provinces, but also that of each province which had ever had a population constituting 25 per cent of the country's total population, a provision which applied to Quebec. This formula also required the assent of two of the Atlantic provinces and of two of the Western provinces, provided that the combined populations of the latter totalled at least 50 per cent of the entire population of the four Western provinces. On the negative side, the right of veto allows one or several provinces, depending on the formula used, to obstruct the course favoured by the majority. If this right is granted to Quebec, it might be perceived as placing an unwarranted restraint on constitutional change, in light of Quebec's traditional stance. Finally, the



right of veto, even granted on a regional basis in accordance with the Victoria formula, would create an imbalance between those provinces which can exercise it individually and those which can only do so by aligning themselves with others. The only solution to this problem would be to grant the right of veto to each one of the provinces, thereby risking a constitutional impasse.

Could the provision of a right of veto to the Province of Quebec alone be acceptable in certain circumstances? An interesting hypothesis, recently put forward,<sup>3</sup> would modify the current amending procedure so that when changes to national institutions or transfers of provincial legislative powers were proposed, but no compensation was offered, Quebecers would retain a collective right of veto, to be exercised by means of a referendum. In recognition of the importance of such a decision, a designated special majority might be required. The responsibility for deciding whether such public consultation was necessary would rest with the Government of Quebec, whose task it would be to choose between the opting-out formula, where applicable, and the right of veto subject to confirmation by referendum. This concept has the fundamental advantage of substantially retaining the present amending formula while still protecting the essential interests of Quebec. The referendum would also introduce an element of participatory democracy, which tends to make the use of a right of veto more acceptable. A variant of this formula might delegate to the Quebec National Assembly the responsibility for deciding whether or not to invoke the right of veto, provided that such a decision was supported by a majority of two-thirds or three-quarters of the members.

Another proposal, which was put forward by the Government of Ontario several years ago, would require, as a prerequisite for any constitutional amendment, the approval of two-thirds of the provinces, representing 85 per cent of Canada's population. In effect, such a formula would give Quebec a right of veto, since that province's population is scarcely likely to decline to less than 15 per cent of the total population of Canada. This proposal was rejected, however, because it meant, among other things, that the opposition of three of the four Atlantic provinces would not suffice to defeat an amendment.

Still other solutions could be considered. From whatever vantage point Canadians examine the problem, it must be acknowledged that the granting of a minimal guarantee to Quebec entails, in one sense or another, a political cost. If resolution of the situation requires, at all costs, the retention of the principle of provincial equality, there are concurrent risks: special status arrangements could multiply if the right of opting out with full compensation is generalized; or the Canadian Constitution could remain fixed in its present form if all the provinces are given an identical right of veto. Alternatively, to grant the right of veto either on a regional basis, in accordance with the Victoria Charter, or only to the province of Quebec would inevitably undermine the principle of provincial equality, a principle which was hard won by the Western and Atlantic provinces during recent constitutional negotiations.

In these circumstances, which solution should be chosen? For a number of people, the Victoria amending formula is still the one which seems to go

furthest towards reconciling the concerned parties' interests, including those of Quebec. It is unfortunate that at present, it seems hardly possible to return to the Victoria formula, given the unequivocal opposition of some provinces during the 1981 constitutional negotiations. Moreover, since the effect of the current amending formula will not be clear until after it has been tested, it seems unlikely that a return to the Victoria formula can receive serious consideration prior to the constitutional conference which must, by 1997 at the latest, re-examine the whole issue of constitutional amendment. In the meantime, the simplest way of providing Quebec with the guarantee it requires, without jeopardizing the principle of provincial equality, is to give each province the right to opt out with full compensation in every case. This solution, which had the support of eight of the ten provinces in 1981, still seems to be the most acceptable to all of them. Furthermore, most of the pitfalls inherent in this formula are also found in the current amending formula. Commissioners therefore recommend this second formula as the preferred solution with regard to jurisdictional transfers from the provincial legislatures to Parliament.

Where changes in national institutions are concerned, the opting-out formula is inapplicable by virtue of the Constitution Act, 1982. The only way to afford Quebec protection would be to grant it a right of veto. If we assume, once again, that a return to the Victoria formula is impossible in the short term, the only other possibilities would be to grant a right of veto either to all the provinces or exclusively to Quebec. Clearly, the easiest solution would be to grant a right of veto to all the provinces as now pertains, for example, in the matter of determining the composition of the Supreme Court of Canada. This solution might prove costly, however, since it could immobilize our institutions for a prolonged period. To grant a right of veto to Quebec alone would be more difficult politically, but at the same time, it would conform more closely to the desired objective insofar as we acknowledge and seek to protect the distinctive character of Quebec society. From this perspective, every constitutional change which reduces the constitutional guarantees granted to Quebec and related to its special nature could be the object of a right of veto. Thus, if a double-majority formula were introduced in the operation of the Senate for certain defined purposes, Quebec's right of veto would prevent a reduction of this protection without that province's consent. Indeed, the introduction of the double-majority formula in the Senate could itself serve as a right of veto. One possible way to accomplish this would be to change section 47 of the Constitution Act, 1982, to grant the Senate an effective right of veto in cases involving changes covered by the double-majority rule. Whatever solution is chosen, however, Commissioners believe that it is important for Quebec to have protection in the matter of any amendment to institutions described in section 42(1) of the Constitution Act, 1982, insofar as such amendments call into question the special character of Quebec and the duality of Canada.

Both the guarantees relating to the amending process and the recognition in the Constitution's preamble of Quebec's uniqueness should facilitate Quebec's approval of the 1982 constitutional accord. Nevertheless, in order for a lasting agreement to be concluded between Quebec and Ottawa, other

issues must be resolved, some relating to national institutions, others to the division of legislative powers. We do not intend to examine every one of these matters here: to do so would be to exceed the mandate of this Commission. It may be useful, however, to consider briefly the means for ensuring that the fundamental interests of Quebec are taken into consideration within federal parliamentary institutions.

We have mentioned the possibility that the Senate might be granted a veto in relation to language matters. Such an idea is not new. In 1978, Bill C-60 and, more recently, the Report of the Special Joint Committee on Senate Reform supported the proposal that any bill with linguistic implications should require the endorsement of a double majority in the Senate, that is, a majority of all Senators and a majority of francophone Senators. Such a measure would positively contribute to reassuring Quebec and francophones outside Quebec that the French language would be protected. In effect, apart from the right of veto granted, the mere fact of having to decide in certain cases whether legislation has linguistic significance would inevitably draw attention to this particular aspect of federal legislation. The new visibility thus accorded to the linguistic dimension of federal interventions would provide a supplementary means of protection for Quebec and for all francophones in the rest of Canada. As was pointed out in the Report of the Special Joint Committee, such a double-majority formula could not be adopted without creating certain problems, particularly with regard to the development of conflict-resolution procedures, the identification of francophone senators, and the criteria to be used for determining which bills should be subject to the double-majority rule. The advantages, however, seem clearly to outweigh the disadvantages. Commissioners are therefore prepared to recommend the adoption of a proposal that "legislation of linguistic significance", or, more precisely, every legislative Act concerning the French language and related cultural questions, should require the ratification of a double majority in the Senate.

As far as the House of Commons is concerned, Quebec's relatively large population has always assured it a significant influence in this elected Chamber. However, the birth rate in Quebec has now declined to such an alarming extent that there is talk of a day when the province might no longer represent 20 per cent of the population of Canada. It is only a single step from that point to considering a provision which would guarantee Quebec a given proportion of seats in the Commons. Such a step, however, must not be taken too hastily. In effect, such forecasts are long-term ones, and many circumstances can change in the short term. On the other hand, the remaining Canadian provinces, with the exception of Prince Edward Island, the smallest one, have always accepted the consequences of representation proportional to the size of their population, and it is unlikely that they would now agree to exempt Quebec from the principle. If the position of Quebec were to become truly critical in the future, there would always be an opportunity to reconsider the matter. For the moment, the protection accorded by the double-majority rule in the Senate, as suggested above, seems adequate, since it would operate regardless of the actual number of francophones in Canada.



## Problems Related to the Division of Powers

The problems related to the division of powers, on the other hand, raise more immediate problems, which will require for their resolution not only considerable imagination but also a real willingness to compromise. The experience of the last 15 years has tended to show that where real compromise is sought in an essentially functional perspective, as with Family Allowances and immigration, solutions can be found: agreements may be defined in bilateral accords or in some form of delegation, two methods of co-operation be formally recognized which this Commission has recommended earlier for inclusion in the Constitution. Alternatively, agreements may be defined by the more complex process of constitutional amendment. In either event, the long-term results will more often than not reflect both parties' desire for co-operation. This does not mean, of course, that points of disagreement will not arise. The several problems cited below, insofar as can be determined, are of interest to other provinces as well as to Quebec. There is no doubt, however, that they are matters of special importance to Quebec.

Quebec will always regard certain sectors, such as education, as highly sensitive. Thus, with regard to the question of minority-language education, the Government of Quebec continues to believe that the coming into force of the Charter deprived it of an important part of its jurisdiction. Before Quebec endorses the Constitution Act, 1982, it may seek certain changes in section 23. 'Access to English-language education for the brothers and sisters of a child who has received part of his or her education in English in another province is stipulated in section 23(2). It seems to be feared that this arrangement could quite easily be used with the sole aim of side-stepping the linguistic regulations imposed by the province in the field of education. However, the Supreme Court has already ruled that the Quebec clause decreed by Bill 101 is unconstitutional with respect to section 23(1)(b) and section 23(2) of the Charter. It will undoubtedly prove difficult now to reopen discussion of the Canada clause, the more so because, as even the Government of Quebec admits, this clause does not threaten the linguistic balance in the province. Furthermore, under section 41 of the Charter and subject to section 43, which concerns amendment of provisions relating to some, but not all provinces, any amendment to the Constitution of Canada pertaining to the use of the English or the French language requires the unanimous consent of the provinces. One possible way to re-open the debate might be to broaden the issue so as to include the discussion of section 23(1)(a), which accords the right to minority-language education to Canadian citizens "whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside." This section remains to be ratified by Quebec under the procedure of section 59. Whatever the approach used, however, it will be difficult to negotiate a satisfactory arrangement without at some point involving the linguistic minorities themselves.

If we proceed beyond this question to consider a much more far-reaching problem, such as the establishment of "national standards" in education, we can readily imagine Quebec's reaction: such a project will be viewed *a priori*

as a serious attack on its exclusive jurisdiction. This attitude, we must recognize, is not new. During the 1950s, Premier Duplessis refused to accept federal government subsidies for the province's universities. More recently, in 1984, the universities of Quebec took a similar stand concerning some subsidies provided by the federal government for the development of centres of excellence. In co-operation with the Government of Quebec, these institutions had submitted a list of proposals with an assigned order of priority. The federal government changed this order of priority. Because this change was considered an act of unwarranted interference, the universities agreed to accept the funding offered, but announced that they would place it in trust until an agreement was reached between Quebec and the federal government. The change of government in the autumn of 1984 resolved this problem, for the new federal government accepted the Quebec universities' original order of priority in its entirety. Canadians should not conclude from this disagreement, however, that Quebec is opposed to any co-operation with the federal government and the other provinces in the search for national standards in education. Nevertheless, education is clearly a field where Quebec believes that it has very special interests to protect, and where it will agree to consider itself bound only by formulae which do not threaten what it views as its own ultimate responsibility. Bearing in mind the serious concerns about the quality of education in Canada which many Canadians have expressed to this Commission, it seems highly desirable to seek without delay means of reaching agreement between Quebec and the federal government. In this manner, the excellence sought by all concerned Canadians may be achieved.

Similarly, it is foreseeable that in such fields as international affairs and communications, Quebec will continue to assert its traditional views in order to gain more room to manoeuvre. Isolated on a predominantly anglophone continent, Quebec has no choice but to seek contact with the outside world and, in particular, with the international francophone community. However, efforts made in that direction during the last two decades have provoked some adverse reactions in the federal government: Quebec's aims have not always been considered compatible with federal responsibility in the field of external affairs. At present, a certain *modus vivendi* seems to have been reached. Sooner or later, however, the real question will have to be considered, that is, the issue of Quebec's role in this field in relation to that of the rest of Canada. Similarly, there is the matter of Quebec's role in communications, an especially critical field for the future of Quebec's culture. Major developments that have taken place in the last 15 years in the communications field, such as cable television, computer technology and video films, afford a glimpse of the increasingly important penetration into Quebec of the English language. Determined efforts must be made, in close co-operation with other francophone countries, to halt this process by further encouraging both the development of original French material and the translation into French of material in other languages. Otherwise, there may be serious consequences for the future of the French language and French culture in Quebec and Canada. In these two areas, working solutions can easily be developed by

recourse to the previously mentioned instruments of delegation or intergovernmental agreements.

Finally, in the economic realm, the major problem will be to provide employment for a population whose mobility is restricted because of language. The unrestricted movement of people which is now guaranteed by the Constitution may be a reality in the rest of Canada, but it remains theoretical where francophone Quebecers are concerned. Between 1976 and 1981, whether because they did not speak English or because they wished to avoid assimilation, fewer than 1 per cent of francophone Quebecers left the province temporarily or permanently to settle elsewhere in Canada.<sup>4</sup>

To recognize the problem is one thing; to find a solution is another. In the wake of *The Report of the Commission of Inquiry on the Position of the French Language and on Language Rights in Quebec* (the Gendron Report) and in direct application of the principles set out in the white paper entitled *La politique de la langue française*, published several years ago, the Government of Quebec launched an extensive campaign designed to enhance the position of French as the language of work. While it is undeniable that the status of the French language and of francophones in Quebec has improved considerably in recent years, it has not been conclusively shown that the recent language legislation is the principal source of such improvement. Nevertheless, it is certain that these measures have had an effect,<sup>5</sup> most notably in the form of initiatives taken by the business community whether indirectly, in anticipation of legislative changes, or directly, in response to the introduction of language legislation. However, other factors, too, have played a part. These include the growth of francophone-controlled businesses and the development of the private sector within the province. A complete picture should also reflect the loss of jobs resulting from the movement of head offices, a shift caused by the implementation of these provincial language policies, even though, in some instances, the real reasons for these relocations may have been quite different. Whatever the degree of effectiveness of these policies, it is doubtful that they could be entirely abandoned in the immediate future. In some respects, they can be viewed as affirmative-action programs designed to improve employment opportunities for Quebec's francophones. In the long run, however, the economic prospects of Quebec's francophones will depend much more on the vitality of Quebec's private sector. The new entrepreneurship which has developed in Quebec in recent years provides good reason to be hopeful on this point. Because of its outward-looking perspective, this new entrepreneurship could contribute not only to the development of Quebec's economy, but also to its greater involvement both in the Canadian economy and in the North American economy as a whole.

## **Francophone Communities outside Quebec**

The problem becomes much more complex when we turn to the situation of francophone communities outside Quebec. Admittedly, the Canadian Charter of Rights and Freedoms has afforded these communities certain individual guarantees in the fields of education and government services. It must be



acknowledged, however, that the ability to flourish as communities remains inextricably linked to the development, in various provinces, of active and diversified institutions which contribute to the establishment and meet the underlying needs of a genuine francophone milieu for francophones. In this regard, the situation varies dramatically from one province to another. In New Brunswick, which is well equipped from this point of view, francophone communities enjoy a relatively favourable position with a very low assimilation rate. The farther one goes from Quebec, however, the more difficulty public and private institutions experience in consolidating scattered communities which offer progressively fewer opportunities to work in French. The latest report of the Commissioner of Official Languages and a recent study by Statistics Canada agree that the assimilation rate is so high in some provinces that the affected francophone communities are in danger of disappearing completely in the foreseeable future. Indeed, the situation can, in certain respects, be considered critical.

Can this trend be arrested? Or must we Canadians resign ourselves to the sight of francophone communities outside Quebec disappearing one after another? Such a result would document the defeat not only of a government policy, but also of a vision of Canada shared by a great many citizens: that of a country in which linguistic and cultural communities are valued to such a degree that they are accorded constitutional protection. Clearly, prompt action is required.

For a start, it is essential to reaffirm Canada's commitment to the principle of linguistic duality. In order to do so, it is necessary, on the one hand, to recognize the dual nature of Canada in the preamble of the Constitution as suggested above and, on the other hand, to promote the acceptance of French and English as official languages in the greatest possible number of provinces. In this regard, there is no doubt that if Ontario should decide to make such a move, the effects would be felt not only in that province, but throughout the rest of Canada, and that these effects would increase support for the principle of linguistic duality. Commissioners cannot stress sufficiently the importance we attach to the extension of the principle of bilingualism in Ontario, which has the largest francophone minority. If it is unrealistic in other respects to believe that all the provinces will someday demonstrate the level of commitment assumed constitutionally by Quebec and New Brunswick, it is certainly not unreasonable to hope that, given conditions appropriate to each of them, basic guarantees will be offered to their linguistic minority.

Beyond the principles and symbols, however, lies the reality. Whereas very real progress has been made in the last 15 years in affirming the bilingual character of Canada, these results nonetheless vary greatly, depending on the sector or region involved. In general, they clearly fall somewhat short of true equality. Another part of this Report, which deals with equality, provides an analysis of the situation of bilingualism in Canada. Generally speaking, however, it suffices to consult the reports of the Commissioner of Official Languages to determine how difficult and delicate a process the implementation of bilingualism in the federal public administration has proved to be. Similarly, at the provincial level, recent problems encountered in Manitoba

and New Brunswick attest to the complexity of any strategy designed to make linguistic equality a reality in Canada.

Must we then conclude that the introduction of official bilingualism in Canada proceeded too quickly, and that there is now a need to mark time in this area? Some Canadians, who object to the considerable costs entailed by such a policy, and who fear the emotional reactions to which it gives rise, would favour such delay. In our view, however, such a solution would call into question the gains already made. On the contrary, the need is to seek to do more for bilingualism and, especially, in a more effective way.

A first means by which this end may be accomplished is the judicial one. Under section 133 of the Constitution Act, 1867, section 23 of the Manitoba Act of 1870, or sections 16 to 23 of the Canadian Charter of Rights and Freedoms, individuals could go to the courts to seek a judgement upholding their fundamental linguistic rights. In fact, during the past ten years, several such judgements have reminded the various governments concerned of their duties in the matter of linguistic rights. But this solution requires a long and arduous journey, and, unfortunately, one that sometimes fails to achieve results. Moreover, in the Ontario Reference Case, based on section 23 of the Canadian Charter of Rights and Freedoms, the Ontario Court of Appeal held that the judicial authority is not the only custodian of Canadians' constitutional rights, and that Parliament and the legislatures also have responsibilities in the field of linguistic rights. The court added: "Minority linguistic rights should be established by general legislation assuring equal and just treatment to all, rather than by litigation."<sup>6</sup>

In view of this comment, we Commissioners believe that above all, it is up to Parliament and the federal government to set the example if only because of the experience they have gained in the application of the Official Languages Act. More specifically, the Commissioner of Official Languages should be encouraged to pursue vigorously the job of educating the public, as well as overseeing the implementation of the pertinent acts and regulations. In this connection, the recommendations put forward by the Special Joint Committee on Official Languages should be seen as evidence of the need to upgrade the Commissioner's position in terms of both mandate and resources. These various recommendations should, insofar as possible, receive government support.

The fact remains that despite all these efforts, the scattered nature and small populations of francophone communities outside Quebec make the survival of some of them as French-language environments very problematic. *La Fédération des francophones hors Québec*, especially sensitive to this aspect of the problem, published a report several years ago, entitled *Une espace économique à inventer*, in which it presented recommendations designed to strengthen the economic underpinnings of francophone communities outside Quebec. Shortly afterwards, in 1982, the Federation organized a national symposium on the economy. More recently still, another conference on the subject "From Linguistic Protection to Economic Development" was held at the University of Moncton. What emerged from the Federation's report, as well as from the symposia, was a clear sense of the

importance of establishing an economic "space" where it will be possible for Canadian francophones outside Quebec to live, work and develop their culture in French.

This orientation bears out the conclusions of some research undertaken on this Commission's behalf, which found that the survival of Canadian francophone communities outside Quebec depends on establishing centres of activity structured around public and private francophone institutions. Here again, it would be unrealistic to believe that all francophone communities outside Quebec could develop such centres of activity by using a single model. For some provinces, such centres would have a basically cultural orientation: they would develop to the greatest extent by successfully integrating the largest possible number of Canadians who now have a working knowledge of French and those who have attended French-immersion courses. In other provinces, notably Ontario and New Brunswick, the economic component, which enhances the cultural aspect, will necessarily be more important. Just as in Quebec, however, it is, above all, the individual initiative of francophones themselves which will bring about such a development. Government support, however useful it may be, will never take the place of individual initiative. Commissioners believe that there must be movement in this direction if the long-term survival of francophone communities outside Quebec is to be ensured.

## Conclusions

Beyond all the problems to which Commissioners have alluded, and which are in some ways inherent parts of Canada's political development process, we must emphasize our country's inestimable richness embodied in the complementary relationship between its two chief linguistic groups. It is now time to turn the page which records the past history of Quebec's relations with the rest of Canada and to begin another to record the new era of co-operation. With the recognition of the duality of Canadian society and the distinctive character of Quebec society, it seems inevitable that problems will continue to arise in the future, but it also seems likely that these problems will be solved as a by-product of the search for the parties' common interest.

## Notes

1. Jean-Louis Roy, *Le Devoir*, October 6, 1984, p. 11.
2. Jean Laponce, "The French Language in Canada: Tensions Between Geography and Politics", *Political Geography Quarterly* (1984): 91-104.
3. Jacques Frémont, *Le Devoir*, May 9, 1984, p. 11.
4. Mireille Baillargeon, "Évolution et caractéristiques linguistiques des échanges migratoires interprovinciaux et internationaux de Québec, 1971" (Quebec: Conseil de la langue française, 1983), Table 4.
5. See François Vaillancourt, "Statut du français et des francophones au Québec: 1960-1980" (Montreal, 1984).
6. Reference Re Education Act of Ontario and Minority Language Education Rights, (1984) 10 D.L.R. (4th): 491-547.



## The Northern Territories

While this Commission has looked, in general, at the problems facing Canada from a national rather than a regional perspective, the situation of Canada's Northern territories merits special attention because it is unique within the federation and within the Canadian economic union, and because most Canadians lack a full appreciation of the challenges facing Northerners. The North is of inestimable significance to the future of the Canadian economy. Although the high cost of developing non-renewable resources will probably prevent dramatic growth over the medium term, the vast northern territories have untapped resources that will help to supply Canada's industrial raw materials and energy fuels long into the next century. They are also the homeland of Canadians of many origins and of a rich blend of cultural characteristics. The interests and aspirations of Northerners must be accommodated within any strategy for the development of Canada's economic wealth.

In some ways, the success with which political leaders integrate competing national and regional interests in the Northwest Territories (NWT) and Yukon will be one of the most important tests of our Canadian federation over the next two decades. The fundamental issues of collective rights versus individual rights and of national unity versus regional diversity are crystalized in the North today. The mistakes made elsewhere in the federation over many years can be avoided in the North because there the slate is almost clean. The opportunity remains to find solutions to many of the dilemmas that plague the politics of southern Canada and to make the northern jurisdictions a symbolic demonstration of the kinds of creative solutions possible within the context of Canada's institutional framework.

Before commenting on and making recommendations about the special issues and problems of the Northwest Territories and Yukon, Commissioners wish to review some general background about the North: its people, its economy, its politics and its special constitutional relationship to the rest of Canada.<sup>1</sup>

### Background: Society, Economy and Culture

#### *Northern Society*

As we Commissioners learned from our hearings and discussions in several northern communities, to understand Northern issues requires an appreciation of the internal diversity of the North. The Northwest Territories and Yukon are dissimilar in many respects, and even within the Northwest Territories there are significant differences among the Mackenzie Valley, the Mackenzie Delta-Beaufort Sea, Kitikmeot, Keewatin, Baffin and high Arctic regions. Hence, while this Commission will make some generalizations, it recognizes the North as a vast and diverse area.

About 47 000 Canadians live in the Northwest Territories and approximately 23 000 in Yukon: a mere 70 000 souls scattered across an area comprising approximately 40 per cent of Canada's land mass. Not only is our

Northern population small, it is also extremely diverse culturally and linguistically. In the Northwest Territories, the Inuit comprise 35 per cent of the population; they live in the north and east, beyond the tree line. They share a common language, with several regional dialects, and have retained close cultural ties with the Inuit of Alaska and Greenland. The Indians of the Mackenzie Valley and the Great Slave Lake region, the Dene, comprise 17 per cent of the territory's population and speak several languages, all of which share the Athapaskan root. Most of the Métis live in the same regions as the Dene, sharing the same communities and lands. The Métis make up an estimated 6 per cent of our Northern population. The remaining 42 per cent are non-Natives, often temporary residents or transients who work for government departments, in schools or on resource-development projects. In the Great Slave-Mackenzie Valley region, growing numbers of non-Natives are permanent residents who view the Northwest Territories as their home.

In Yukon, the Indian people comprise approximately one-quarter of the total population. Most speak Athapaskan dialects; a few, in the south-west, speak a dialect of Tlingit-Haida. There are no Inuit in Yukon, and most non-status Indians identify with the status Indians and are counted as "Natives" in territorial statistics. Some non-Natives in Yukon are transients and temporary residents, but most are long-term or permanent Yukoners, many with family connections in the territory going back several generations. The long-term residence of non-Native Yukoners and the minority status of the Native population has produced conflict, but both sides desire a mutually acceptable accommodation of Native and non-Native interests, recognizing that political development of the territory depends on that compromise.

### *The Northern Economy*

To understand the economy of the North, we must look at the Northwest Territories and Yukon in relation to the economies of Canada and the world, and examine them in terms of economic relations within the two territories. The Northern economy is based on the production of staples, and the most significant of these are non-renewable resources. The North exports these staples to the South in raw or relatively unprocessed form. Because the export price of non-renewable resources depends largely on world prices in markets over which our Northern economy has no control, the North suffers from virtually complete economic dependence, from economic instability, and from "boom-bust" cycles. Thus, while the future wealth of the North probably lies in developing its non-renewable resources, that sector is extremely volatile. For this reason, it may prove too fragile and too unstable to support long-term employment.

The large scale of most Northern development projects and their extraordinarily high production costs require the use of development capital from non-Northern sources. Accordingly, governments and multi-national corporations dominate the financing of most such projects. Moreover, while the North possesses a strong, if not stable, primary sector and a large and comparatively stable service sector (chiefly owing to governments' activities),

secondary manufacturing is virtually non-existent. Transportation, production and labour costs inhibit growth in labour-intensive manufacturing and make it, too, an unlikely source of long-term employment. (See Table 24-1.)

**TABLE 24-1 Distribution of Labour Force by Industry, 1981**

Industry	Yukon	NWT	Canada
Agriculture	0.64	0.13	3.92
Forestry	0.53	0.38	0.82
Fishing/Trapping	0.30	1.19	0.30
Mining (including oil and gas)	10.00	10.88	1.71
Manufacturing	2.26	2.08	18.09
Construction	6.88	4.98	6.13
TCU <sup>a</sup>	11.99	10.60	7.63
Trade	12.82	10.65	15.96
FIRE <sup>b</sup>	3.76	3.51	5.06
CBPS <sup>c</sup>	23.31	24.02	27.71
Public Administration	19.21	25.29	7.23
Undefined/N.A.	8.42	6.28	5.44

*Source:* Statistics Canada, 1981 Census of Canada.

- a. TCU = Transportation, Communications and Utilities.
- b. FIRE = Finance, Insurance and Real Estate.
- c. CBPS = Community, Business and Personal Services.

The Northwest Territories and Yukon have three distinct economies. Only Native peoples participate in the traditional or subsistence economy. The pure subsistence economy, while based on staple production, does not depend on export of the product. Very few Natives are involved exclusively in the subsistence economy; most supplement their hunting and fishing activities with frequent, if temporary, forays into the wage economy. Generally speaking, the traditional economy is healthier in remote communities than in larger and more accessible centres, and many Inuit, because they live in remote areas, continue to subsist mainly on “country food”.

The North’s second economy is an extension of Canada’s Southern wage economy. Many Northern non-Natives participate in this economy, and growing numbers of Natives, too, work for governments in resource-development projects, and in other enterprises in the private sector. Natives are not more fully involved in the wage economy of the North because of their lower skill levels, their place of residence, their unwillingness to relocate, and the importation of Southern non-Native workers. The most important reason, however, is that the wage economy undermines the traditional Native economy. Regular employment in the wage economy allows no time for hunting, and many Native people are unwilling to give up that way of life to earn a stable income.

In addition, the North has a social-assistance or “welfare” economy. Most of the beneficiaries are Native, though few exist entirely on this income. They



use the money primarily to buy food staples, rifles, ammunition, snowmobiles, outboard motors, and other equipment and supplies, thus buttressing the traditional economy.

The three economies interact, and many Native people occupy a place in each of them from time to time. For instance, seasonal employment clearing brush can be supplemented by trapping, hunting and fishing, and all these sources of income are ultimately supported by social assistance. Thus, while the greatest potential for job creation in the Northwest Territories and Yukon is in the non-renewable/resource sector, any analysis of our Northern economy must recognize and allow for the importance of subsistence hunting and fishing as a complement to the wage economy.

### *The Political Culture of the North*

Political institutions, attitudes and debate in the Northwest Territories and Yukon are all rooted in the liberal democratic values of Southern Canada, but not exclusively so. The traditional values of the Native community interact with the basically liberal values of Northern non-Natives to produce a distinctive political culture. For instance, Natives place a far higher value than non-Natives on the collectivity: the community. This "collectivism" derives from the precarious nature of life in traditional hunting and gathering societies, where the survival of the tribe, the clan, the extended family or the community is more important than the fate of any one individual. Individualism is a luxury that traditional societies often cannot afford.

A corollary of this collectivist concept of society is the absence or weakness of the notion of private property in both the Indian and the Inuit cultures. The concept of individual possession, a cornerstone of liberal societies, is replaced by the principle of community sharing. Thus individuals are not perceived as owning things but, rather, as using them; and, when a particular item is not in use, it automatically reverts to a "common" status where it is free to be used by some other member of the group. Nowhere does this concept appear more clearly than in Native attitudes to the land.

Members of the Indian and Inuit cultures hold the land and its resources in reverence, for the community depends on the land for survival. The Native peoples feel a oneness with the land, for they believe that the people and the land are extensions of the same Being, and the traditional Native religions foster respect for the land and for the plants and animals that share it with humans. Native persons view the world around them as a homeland given to them, to which they must adapt in order to survive. This concept contrasts starkly with the "Southern" notion of the "frontier", which sees the environment as essentially alien and hostile. This view holds that humans must adapt the Northern environment to their own use: they must conquer or domesticate it and make it useful.

The Native concept of the land has led to conflict over development of non-renewable resources in the North. There is a very practical fear that such projects may do irreparable damage to the environment, and so destroy the renewable resources on which the Native economy and the traditional way of life depend. In addition, extraction of non-renewable resources is alien to the

Native culture. The Native economy uses the fruits of the land, extracting only renewable resources and never permanently alienating any of its wealth. Thus, while Natives are gradually coming to accept development of non-renewable resources, they continue to be concerned about the effect on their traditional economy and on their way of life.

Collectivism appears also in decision making by consensus. As a result, the entire community has a right and even an obligation to participate in such decisions. This collectivist concept of society enabled Northern peoples to govern themselves in an orderly and systematic fashion centuries before the arrival of the first European explorers.

Consensual decision making does not eliminate the need for leadership, but, unlike Southerners, the Dene and the Inuit do not see political power as monolithic. Liberal political theory links the concept of political authority to that of sovereignty. Patterns of authority in the modern liberal state are basically unitary and hierarchical. In contrast, Native society is characterized by more diffuse political authority: its communities follow different leaders for different kinds of activities. The form of decision making varies for hunting, spiritual matters, family matters, settlement of internal disputes or punishment of wrongdoers. Consensus determines who is most suited to lead in any given situation. Thus, there is a functional division of labour: the best hunters will dominate in one area, a shaman in another, and the tribal elders in still others. Institutional transplants from the South have ignored these basic political principles, and as a result, many have failed.

### *Political Economy and Political Culture*

The wage economy too, does not mesh easily with Native values, and the incongruity makes it difficult to integrate Native workers into the Northern labour force. Indians or Inuit entering the wage economy must abandon collectivist values and set aside the sense of community so integral and so essential to their way of life, since their work in the wage economy is not for the collective good of the community, but for individual gain. The change of values represented in this experience contributes to aboriginals' alienation from their culture which, in turn, undermines traditional social structures and patterns of authority. Consequently, Native people come to see power and influence in terms of income or monetary wealth, rather than in terms of traditional skills. Elders who remain within the traditional economy may clash with younger people who have chosen non-traditional employment.

The wage economy forces Natives to uproot themselves and their families from their homes in order to find work. This disruption, coupled with the fact that most wage employment is found in relatively urbanized settings, can cause alienation, serious social disorientation, and a loss of the sense of community. While informing young Natives entering the wage economy about its pitfalls can moderate these negative effects, the basic dilemma lies in the incompatibility of the wage economy and traditional Native values.

The wage economy, particularly that tied to the extraction of non-renewable resources, alienates Native people from the land. All aspects of a traditional hunting and gathering society – its social values, political culture,

art, legends, religion, social structure—reflect its central purpose of survival through the use of renewable resources. To remove this central purpose and to replace it by either a wage or a welfare economy could destroy the core of Native culture and ultimately threaten its survival.

Northern Native peoples have recently begun to adapt to the development of non-renewable resources. They are balancing traditional priorities with the pressures of mega-projects and Southern encroachments on their communities, and they are setting up corporate mechanisms such as locally-controlled development corporations. These institutions, coupled with the older community-based co-operatives, permit Natives to participate in the wage economy through institutions which they themselves control, and which are therefore sensitive to the traditional economy and way of life. All Canadians hope that such “bridging” methods can be further developed.

The economic and cultural factors outlined above interact with one another and shape political and constitutional issues in the North. Economic development will affect the fate of the Native culture. It is a fragile culture under siege, not because of deliberate attack from non-Natives, but because of rapid development in the North. Thus, economic and cultural changes, as well as pressures from the South, set the agenda for political discourse.

## **Issues and Recommendations**

Long-term economic growth in Northern Canada depends on the exploitation of non-renewable resources. The Northwest Territories and Yukon represent over one-third of Canada's land, and their petroleum and mineral resources have scarcely been touched. For these reasons and because of the continuing, though reduced, importance of resource development to our national economy, the futures of Canada and of the North are inextricably intertwined. However, while development of non-renewable resources may be essential for Northern development, it is not the only important issue in the region.

There are cultural, economic and political issues in the North that clearly distinguish it from the rest of our country. One of the North's most significant distinguishing features is its Native people. The plight of Native Canadians is of concern throughout Canada, but in the North, Native issues actually dominate political discourse. Ultimately, these and other controversial matters with institutional dimensions will affect the nature and pace of development in the region. Canadian decision makers must deal with all these issues quickly and sensitively, not only to ensure development, but also to arrange for the Native and non-Native people of the Northwest Territories and Yukon to enjoy the same rights and benefits as other Canadians.

## ***Native Northerners and Political and Economic Change***

### ***Aboriginal Claims***

Most Canadians now accept that Native people in the North have a legitimate claim to lands used traditionally in subsistence hunting and fishing,



as well as a right to financial compensation for past alienation of their lands and resources. Most support the concept of fair and prompt settlement of the aboriginal claims of Native Northerners, and the federal and territorial governments have committed themselves to negotiating such a settlement with representatives of the four main Native groups. Unfortunately, ten years of negotiations have settled only one of the four major claims, that of the Inuvialuit, the people of the Mackenzie Delta-Beaufort Sea region. Failure to settle the other three claims has retarded economic development, blocked constitutional change, and prevented creation of a separate territory in the Eastern Arctic. It is high time to conclude negotiations, ratify settlements, and proceed with economic and political development of the North for the benefit of all Northerners and of Canadians generally.

Negotiations on aboriginal claims hang on two issues: extinguishment of claims and political rights. The former has produced a stalemate between the governments and Native organizations. Natives have argued that the claims settlement should guarantee aboriginal rights in perpetuity, while the federal and territorial governments argue that statutory and constitutionally entrenched protections should replace traditional aboriginal rights. Since much of the dispute hinges on semantics, abandoning the term "extinguishment" in the deliberations would help to eliminate this obstacle. The settlement should "affirm" the specific aboriginal rights being recognized and acknowledge that the lands and moneys involved are being ceded in perpetuity.

Special political rights for aboriginal peoples have been a prominent issue in recent years in all parts of Canada. There is growing willingness to consider "special status", or "Native self-government" for Native Canadians: institutional arrangements that would allow Native people more control over their cultural affairs, education and social services, and that might even guarantee them representation in national institutions such as the Senate. While the liberal values of individualism and universality have so far dominated our Canadian political culture, we should certainly feel free to seek other means of accommodating the special interests of collectivities in our federal institutions. Land-claims negotiations, however, are an inappropriate forum for developing such mechanisms. Because these mechanisms would affect the rights of both Native and non-Native Canadians, Parliament, the legislatures of the Territories, and constitutional conferences would be ideal settings for discussion. In this Commission's view, Natives should participate on boards and commissions dealing with matters directly affecting their lands and renewable resources, but they should not attempt to use the claims process to entrench either legislative jurisdiction or special representation in legislative bodies pertaining to any order of government.

The federal government might wish to consider negotiating a deadline for settlement of Northern aboriginal land claims, after which funding of Native negotiating teams would cease. The federal government, Commissioners believe, should state unequivocally that legislative powers, sovereignty and special political status will not be part of any claims settlement, but that such settlements will not in any way restrict the power of Native peoples to take advantage of special political rights defined by other forums at some time in

the future. While the agreements, in our opinion, should be seen as affirmations of aboriginal rights rather than as extinguishments, they should also be final and binding on Native groups, the territorial governments, and the federal government. Certainly, further delay in reaching final settlements will serve no one well.

### *The Renewable Resources Sector*

While all Northerners have a stake in the future of renewable resources in the two Territories, these resources constitute the economic base for Native people. The renewable resource economy contains commodity production and subsistence. The most important component of the renewable resource sector is the traditional economy of the Native people. The key problems in commodity production revolve around the fur industry. At the best of times, this industry faces severe market fluctuations, and the recent European boycott and the increasingly powerful lobby against leg-hold traps have left it in a state of virtual collapse. This decline has meant significant losses in revenues for Northern Natives and has put additional strain on Northern social services. While the fur trade is no longer a major component of the Canadian economy, it has, until recently, supplemented other sources of income, and it complements the subsistence activities of Native people, particularly in Northern Canada. While it is unlikely that the fur trade will ever again be a major part of the Northern economy, Commissioners suggest that the federal and territorial governments should continue to explore means of countering the anti-trapping lobby, of finding new markets, and of developing alternatives to the fur industry.

One possible alternative to the fur industry is Northern commercial fishing, for the northern seas offer potential for the commercial harvesting of fish and other seafood. This possibility requires further study. In the meantime, the federal government should ensure that regulatory agencies and marketing boards dealing with the fishing industry do not unintentionally retard or block development of a Northern fishery through exclusive concentration on the problems and interests of the Atlantic- and Pacific-coast or inland fisheries.

The subsistence portion of the traditional economy is quite healthy. Subsistence hunting and fishing, particularly in more remote communities, are not disappearing; indeed, they are a significant part of the Northern economy. A tendency among analysts to dismiss the traditional economy stems from the difficulty in measuring it and from the view that hunting and gathering are outmoded activities. In the North, however, approximately 30 per cent of the real income of Northern Natives comes from the harvesting of country food, and that harvest provides a significant percentage of the protein needs of Northerners.

Thus, in the North, the subsistence economy has a place analagous to that of agriculture in the South. Accordingly, the framers of policies and programs aimed at bringing Native people into the wage economy should recognize that like farming, subsistence hunting and fishing are an occupation. The territorial and federal governments should therefore explore the possibility of

developing means to upgrade and strengthen the subsistence component of the North's economy by, for instance, allowing tax breaks for full-time hunters comparable to those available to farmers in the South. They should also ensure that training and development do not focus on development of skills marketable only in the non-renewable sector. Such programs should take account of the cyclical participation of Native Northerners in the Northern wage economy and in production of country foods for personal and family consumption. Some funds earmarked for training might usefully be devoted to upgrading traditional skills, as well as to improving employment prospects in the wage economy.

## **Constitutional and Institutional Development in the Northwest Territories and Yukon**

Three basic constitutional issues dominate the political agenda within and about the North. Two of these issues, responsible government and devolution of power from the federal to the territorial level, are of equal concern in both Territories. The third, the division of the Northwest Territories into two separate jurisdictions, is of direct concern only to the people of that Territory.

Commissioners believe that responsible government and continued devolution of federal responsibilities to the territorial government should occur with or without division of the Northwest Territories. Nevertheless, it is unlikely that such constitutional development will take place before the issue of division is settled. Creation of two new territories may require different rates of constitutional development in order to accommodate local priorities and different administrative and employment capacities. In this connection, Commissioners wish to emphasize several points: governments should not let the issue of division of the Northwest Territories frustrate the aspirations of the people of Yukon for full responsible government; our recommendation of responsible government should be taken to apply equally to an undivided Northwest Territories or to the two new territories that might emerge following division; our recommendations concerning devolution of authority to the territorial governments should apply equally to the territories that might emerge after division. In addition, the federal government timetable for devolution should not be imposed on the new territories, and the elected representatives of those territories must participate in setting the priorities for transfer of power. It must be recognized, however, that there is urgency to resolve the issue of division so that constitutional evolution in the Northwest Territories can proceed.

### ***Responsible Government***

In Canada responsible government has three main features. The Cabinet, or executive council, can be "the government" only if it has the support of a majority, that is, the "confidence", of the legislature; the Cabinet exercises the powers of the Crown; and the executive is responsible to the legislature for the "public purse", that is, for all matters of supply and "ways and means".



Yukon has achieved *de facto* the first two of these features of responsible government. Its Commissioner acts in a manner analogous to that of a Lieutenant-Governor in a province, and the Legislative Assembly has the power to vote non-confidence in the government. In this Commission's view, the federal government should amend the Yukon Act to reflect this reality.

The Commissioner of the Northwest Territories still exercises some policy-making power in the day-to-day operations of government, and it is not clear whether the Legislative Assembly can vote non-confidence in the Executive Council. The Northwest Territories is the last jurisdiction in Canada without responsible government, and we Commissioners believe that there is no justification for continued denial of this right. The federal government should, in our opinion, grant the Legislative Assembly powers commensurate with those of Yukon's Assembly.

Some Canadians will argue that responsible government cannot exist without a well-developed party system, and that the Northwest Territories, unlike Yukon, lacks political parties at the territorial level. The expectation of executive authority, however, will ultimately motivate the loose and shifting coalitions of non-party governments to transform themselves into disciplined parties. The federal government should therefore amend the Northwest Territories Act to give that area responsible government.

The third requisite for full responsible government is, of course, complete control of the public purse. With the current system of funding, the federal government must still agree on a basic set of spending targets for each of the Territories. If a Territory has had financial troubles, the federal government has usually provided additional support. The territorial governments desire a system of formula financing which would give them both greater fiscal autonomy and corresponding responsibility. Such a system would make federal transfers predictable over long periods and allow for long-range budgetary planning. Hence, the federal and territorial governments should negotiate financial arrangements to give the territorial governments full power over the public purse and to impose genuine responsibility and accountability for expenditure.

### *Devolution of Authority*

Over the past two decades, the Northern Territories have evolved from virtual colonial status to the acquisition of responsibility for a wide range of "provincial" services. The logical end of this process is provincehood, although four barriers might delay progress towards provincial status for a decade or more. These are the Territories' small populations, their uncertain revenue base, their unresolved internal disputes, and the practical considerations of a national interest in the North. Our new constitutional amending formula specifies that creation of a new province requires the consent of at least two-thirds of the existing provinces, representing 50 per cent of our population, and of the federal parliament; to secure agreement might prove a formidable task. Existing provinces might oppose creation of new provinces simply because it would alter the balance of the amending formula. (For instance, if there were 13 provinces, two-thirds (9) of the provinces with more

than 50 per cent of Canada's population could amend the Constitution without the approval of any of the four Western provinces.) Nevertheless, though even territorial leaders who aspire to provincehood are not demanding it immediately, the people of the North are making a legitimate request for *de facto* status. Commissioners believe that the federal government should indicate its commitment to some form of provincehood for the Territories as an ultimate goal and should grant Northerners all the benefits of Canadian citizenship.

The North will probably overcome the first three barriers to provincehood mentioned above. Population, now growing largely through increase of the resident population, will expand through migration as economic development proceeds. Similarly, as the Northern economies evolve, the revenue base will expand, and the Territories will develop a more adequate tax base. The internal problems, settlement of land claims and division of the Northwest Territories, will probably be settled within the next few years.

The fourth barrier to provincehood will be the most difficult to surmount. It is represented in the question: Is it appropriate for 70 000 residents of the Northern Territories to assume control over approximately 40 per cent of Canada's land? The question implies its own answer, and that answer leads Commissioners to believe that there should be continuing national interest in the development of Northern Canada. Few, even of the most strident of Northern autonomists, would dispute this conclusion. As one Northerner stated in our hearings, "The North is the future of Canada." Because we accept the validity of that statement, we consider that the future of the North should be the concern of Northerners and of all Canadians. The federal and territorial governments must find a means of sharing responsibility for development. The people of the Territories must have some influence on decisions that affect them and their homeland, and so too must the federal government in its role of representative for all Canadians.

Where there is no demonstrable national interest, territorial governments should have powers like those of the provinces. Thus the federal government, in consultation with the territorial governments, should establish a timetable for the transfer of provincial-type responsibilities in areas such as health, the institution of criminal proceedings, labour relations, inland waters and renewable resources. Joint-management arrangements might prove to be valuable transitional tools. Timetables might vary from territory to territory and from one type of jurisdiction to another, but devolution to the Territories of most aspects of these matters should be completed within five years. Opponents of such a proposal may raise the issue of costs, but the federal government is presently bearing the costs of performing these functions, and the territorial governments could perform them just as efficiently. While there might be marginal additional costs because of negative economies of scale in such small jurisdictions, savings from the dismantling of parts of the Northern program of the Department of Indian Affairs and Northern Development will at least partially offset them.

There is a clear national interest in non-renewable resources and ownership, and control over land for their development. Various approaches could facilitate co-operative federal-territorial sharing of these responsibili-

ties: delegation of powers to the territory, but with a federal veto in matters of an overriding national interest, or concurrent jurisdiction with federal paramountcy. Joint management similar to that of the offshore resources agreement between the federal government and Nova Scotia or Newfoundland is also a possibility. It is important, however, for the federal and territorial governments to devise mechanisms to involve the territorial governments more fully in decisions affecting development of non-renewable resources. Moreover, any such arrangement should define the circumstances where there could be a federal override.

It probably would not be in the national interest to transfer all lands in the Territories to the territorial governments in a single action. However, once the mineral and petroleum potential of territorial lands becomes known, and once such issues as aboriginal land claims and national parks and park reserves have been settled, the federal Crown could begin to transfer large parcels of land to the Territories. Such transfers, if made gradually, would in no way compromise the national interest and would give the territorial governments both increased revenue potential and greater effectiveness in development of renewable resources, tourism, municipal affairs and territorial parks. The governments should begin negotiations to transfer to the Territories the surface rights to Crown lands that do not directly bear on the national interest and that have not been ceded to the Native people through the settlement of claims.

In the short term, at least, ownership and control over non-renewable resources will rest with the federal government. However, the people of the North should enjoy a fair share of the revenues and royalties generated by resource-development projects. The federal government should consider arrangements for sharing resource revenues with the Territories; these arrangements could be similar to those negotiated with Nova Scotia and Newfoundland. The Government of Canada would have to integrate such an arrangement within the formula for federal-territorial financial transfers so that windfalls from non-renewable resources would result in automatic prorated reduction of transfer payments. Moreover, there should be an overall ceiling on revenues accruing to the Territories from non-renewable resources.

Provincial status is normally a prerequisite for full participation in federal-provincial conferences. However, although provincehood is not in the immediate offing for the Territories, Commissioners are of the opinion that the federal government should provide for direct participation of their governments in such deliberations. This involvement is particularly important for discussions of matters directly concerning Northern residents. It does not require a constitutional amendment, and it could occur immediately.

Finally, one important symbolic step for the Territories would be to remove the provision in section 42(1)(e) of the Constitution Act, 1982 that allows for extension of existing provinces into the Territories without agreement of the people of the Northwest Territories and/or Yukon. The federal government should initiate an amendment requiring agreement of the legislative assembly of the territory concerned before existing provincial boundaries could be extended north of the sixtieth parallel.



## *Division of the Northwest Territories*

In the period since 1979, the Legislative Assembly, a territorial plebiscite, and Liberal and Conservative federal governments all have supported in principle division of the Northwest Territories and creation of a new territory of Nunavut in the eastern Arctic. Unfortunately this goal still seems distant. Difficult issues remain: location of the boundary and of seats of government, the form of government, and the timing of the division. Of these, the boundary is the most difficult issue to resolve.

Members of the Constitutional Alliance of the Northwest Territories are still discussing the boundary. The Nunavut Constitutional Forum (NCF) has been arguing for a line that runs diagonally, southeast to northwest, roughly following the treeline. The Western Constitutional Forum (WCF) generally favours a north-south boundary from the sixtieth parallel to the Arctic Ocean, west of the community of Baker Lake and east of the Committee for Original Peoples' Entitlement (COPE) communities. The two forums have reached a tentative agreement, but have not yet ratified it.

Two sub-issues delay settlement of the boundary. First is the issue of community: Will the people of the Western Arctic (Inuvialuit) and those of the Central Arctic join Nunavut or the Western Territory? Geography and transportation and communication links suggest that they would choose to join the Western Territory, but cultural and linguistic ties with the Inuit of the eastern Arctic point to the likelihood of their joining Nunavut. Choice of a boundary involves human considerations, particularly the wishes of the people affected. The January 1985 agreement between the NCF and the WCF would have left the Inuvialuit communities in the Western Territory and allowed the Central Arctic communities to make their choice by referendum. However, the NCF withdrew its support for the boundary agreement at the end of February 1985, and the issue remains unsettled.

The second issue derives from the implication of the boundary for access to natural resources. To be economically viable, both Nunavut and the Western Territory must have a sound resource base. The dispute is centred on control of the western Keewatin—the unpopulated lands between Great Slave Lake and Baker Lake, with their potentially rich resources—and the Mackenzie Delta-Beaufort region, with its petroleum resources. The ideal boundary would leave each territory with sufficient renewable resources to maintain the subsistence economy and sufficient non-renewable resources to provide an adequate revenue base. Unfortunately, each side is reluctant to compromise.

Since all orders of government and most residents favour division, the federal government should press the Constitutional Alliance to act. Uncertainty about division colours all aspects of northern development, and doubts about the fate of the territory have slowed economic growth, hampered settlement of land claims, and retarded devolution. Hence, Commissioners recommend that the Government of Canada give the Constitutional Alliance an early deadline for establishing the boundary internally. Failing an internally-generated and ratified agreement, we believe that the federal government should establish an independent boundary

commission. This body would hear arguments from the two constitutional forums and make recommendations concerning a boundary. Although, ultimately, it would be the duty of federal and territorial governments to ratify any boundary chosen, no division should be forced on the people of the Northwest Territories.

Ownership and control of resources in western Keewatin and the Beaufort-Mackenzie Delta region would no doubt remain temporarily with the Crown in right of Canada. A long-term solution would probably involve agreement between Nunavut and the Western Territory to share resource revenues and/or to accept transfers of federal revenues in place of revenues from non-renewable resources. For renewable resources, such as wildlife and fish, the two territories should work out joint management and harvesting strategies. Such resources, particularly caribou, migrate annually over a wide area and exhibit a particularly irreverent attitude to political boundaries in the course of their wanderings.

After territorial division, the WCF and the NCF should decide the structure of government, respecting, of course, the Charter of Rights. Ideally, institutions should reflect the political values of all Northerners, protect aboriginal rights, and represent minority interests fairly. The federal government should encourage creativity and innovation in the development of new and uniquely northern institutions, although the Charter of Rights will necessarily set the broad guidelines for the range of legitimate options.

It appears reasonable to approve a longer residence requirement for voters to protect the fragile social structure of the Northwest Territories and Yukon from the harmful effects of massive immigration of temporary residents to work on development projects. Commissioners suggest, however, that the requirement should be two or three years of residence, not ten. Similarly, while special political status might protect ethnic and cultural minorities, such status should not compromise the basic democratic principle of representation by population. The federal government must ensure that the new institutional arrangements do not contradict the spirit of the Canadian constitutional tradition.

Creation of two new territories will make Canada's North "more governable"; will give considerable satisfaction to the region's inhabitants, particularly the Inuit of the eastern Arctic; and will better accommodate different rates of political and constitutional development in the various areas of the region. However, the new institutions that division will require will cost more than those of the present system, at least in the beginning. The Government of the Northwest Territories and the two constitutional forums must therefore accept federal involvement in institution-building where federal appropriations will be affected.

When division of the Northwest Territories would occur would depend on several factors: a boundary settlement, cost of the transition and the provision of federal funds to pay for it, and availability of public servants and infrastructure to support the new government of Nunavut. To staff the public service would take time, and the process might delay establishment of Nunavut. The predominantly-Inuit Eastern Arctic wants a government sensitive to the cultural needs of Native residents and able to conduct its

affairs in the Inuktitut language. Thus an imported bureaucracy, even one that would serve only for the first years of the new territory's existence, would defeat one of the main goals of the creation of Nunavut. The hard reality, however, is that few Inuit have the background or training to staff senior management and technical positions in the public service. The federal and territorial governments should therefore evaluate existing educational, training and development programs for Northerners with a view to creating a comprehensive program to prepare Native people to staff Nunavut's public service. The same type of program could also increase the number of Native Northerners in senior positions in the Western Territory.

## **National Issues and Northern Perspectives**

Some issues of national concern have distinctive northern dimensions and special significance in the North. Commissioners review three of these in order to emphasize that all Canadians must be sensitive to the distinctive character of Northern aspects of national policy.

### ***The Northern Ecology***

The Canadian North constitutes one of the last unspoiled ecosystems in the world. It is not simply a Canadian treasure, but part of the world's natural heritage. Sections of this Report have noted the need for caution in developing non-renewable resources. Commissioners have warned against destroying the base for the traditional Native economy, emphasized preservation of renewable resources, despite the desire to develop gas, oil and mineral resources, and urged protection of endangered species, habitats and ecosystems. Over and above all these considerations, however, Canadians must recognize the intrinsic value of the northern ecosystem. We must all learn to value wilderness – the unspoiled aesthetic virtue of the North – in the way that Northerners do. There are convincing practical arguments for respecting the northern environment, and they supplement the awareness, particularly strong among Native peoples, that the environment is the very ground of our existence and intrinsically worthy of our respect and even of our awe. We Canadians must never allow short-term economic strategies, however attractive, to destroy our North, which we hold in trust for the future.

### ***International Trade***

Much of this Report has looked at Canada's international trade prospects. More specifically, it has concentrated on Canadian relations with our closest trading partner, the United States. Northerners have a common interest with all Canadians in trade with the rest of the world, but two issues may be of special concern to them: trade with Alaska, and trade with the entire circumpolar region.

The major flow of Canada-U.S. trade is between Canada and the continental United States, but trade between Alaska and Yukon is of great



importance to Northerners. The Yukon government and a number of interest groups have suggested freer economic relations with Alaska. Commissioners recommend research on a special bilateral trade agreement affecting the far northwest. Yukon's only access to ocean is through the Alaskan ports of Haines and Skagway. Some Canadians have suggested that Skagway, which has land links with the rest of Alaska only through highways in British Columbia and Yukon, could become a "free port".

Some Northerners would like to further relations with other parts of the circumpolar region. The Inuit of Canada share linguistic and cultural ties with Greenland, Alaska and the Soviet Union. They have formed the Inuit Circumpolar Conference to maintain cultural ties and to address problems of common Arctic concern. Spokespersons for the Canadian Inuit have indicated a desire to see these links sanctioned officially. They want to foster international efforts to protect the Arctic environment, and they wish to facilitate economic and cultural exchange among the circumpolar peoples.

### *Technological Innovation and Arctic Sovereignty*

There are urgent reasons for Canadians to develop technology suitable for the Arctic. Given our oil and gas exploration in the Beaufort Sea and our permafrost studies relating to pipelines, we should be developing a comparative advantage in such fields. Even more important, Canada must affirm legal and technological sovereignty over the Northwest Passage and other Arctic waters. Indeed, it is essential to maintenance of Canadian sovereignty in the Arctic that federal and territorial governments support research and development in technologies appropriate to the region. As one participant pointed out in a seminar sponsored by this Commission, the former is meaningless without the latter:

*If Canada is to exercise the necessary control to maintain the sovereignty it claims to have acquired over the waters of the Northwest Passage, it must develop a full range of sea- and land-based services to ensure that its control is factual and effective . . . it should be able to provide the following services: marine navigational aids; icebreaking and escorting; marine search and rescue; marine emergencies/pollution control; marine mobile communications services; ports, harbours, and terminals; vessel inspection services; vessel traffic management; marine resupply administration and support; pilotage; and training.<sup>2</sup>*

### **Conclusions**

There are many issues of concern to Northerners that Commissioners have not specifically addressed in this section. We consider these issues as among national priorities, and we address them elsewhere in this Report. We wish to emphasize here, however, that the distinctive interests of Northerners, both Native and non-Native, must receive the same consideration as those of Canadians in the provinces. Canada must integrate the Northern territories into the federation so that their people can enjoy the rights and privileges

enjoyed by other Canadians. The Northern territories must gradually be granted powers equivalent to those exercised by provinces in the South. In this way, we can foster the distinctiveness and diversity of the North, thus enriching the Canadian cultural fabric, while giving Northerners the opportunity to participate equally in the full benefits of the national community.

## *Notes*

1. Background information on the North is contained in the volume *The North*, vol. 72, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985). Commissioners are also grateful for the enthusiastic response of Northerners in the hearings process and for their informative submissions.
2. Donat Pharand, "Sovereignty and the Canadian North", in *The North*, vol. 72, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).

## Aboriginal Self-Government

As Commissioners have noted, issues emerge from time to time concerning the status of particular groups within the Canadian community. At such times Canada has used institutional and constitutional mechanisms to help resolve these concerns. The experience of aboriginal peoples reveals how difficult it is to accommodate their aspirations for enhanced status and social and economic improvement within the existing constitutional and institutional framework.

Many actors in many forums have tried to improve the conditions of aboriginal peoples and to increase their influence on decisions that affect their lives. There have been federal-provincial discussions, land-claims negotiations, court cases, direct appeals to the Crown, and representations to international bodies such as the United Nations. Issues involved have included: recognition of aboriginal and treaty rights, the vote, provision of health and housing services, facilities for aboriginal people in urban Canada, compatibility of resource development and environmental protection, and, most recently, aboriginal self-government.

Self-government is the most prominent aboriginal issue today. Some aboriginals claim an inherent right of sovereignty, in which they include self-government. Others see self-government as a pre-condition to solving the social, cultural and economic problems facing aboriginals. The primary official forum for discussion of aboriginal self-government has been the series of constitutional meetings instituted as a result of section 37 of the Constitution Act, 1982.

Discussion of self-government has not fully taken into account the implications of various reform proposals for the Canadian constitutional order. Proposed models of aboriginal self-government vary in their compatibility with the overall structure of Canadian government and the rights and obligations of Canadian citizenship. Therefore, the outcome of the debate over aboriginal self-government will affect relations of aboriginal peoples, not only with the governments of Canada, at the federal, provincial and municipal levels, but also with other Canadians. Commissioners believe it important to ensure that the approach ultimately taken conforms broadly with the institutional and constitutional structure of Canada, particularly with Parliament, federalism and the Charter of Rights.

The position of aboriginal peoples in Canada also has international implications. Canadian aboriginals have established, and will undoubtedly further develop, contacts with aboriginal groups in other lands to exchange information and to improve their understanding of matters of common interest. Moreover, international organizations have demonstrated significant interest in aboriginal affairs, and this interest extends to the condition of aboriginal peoples in Canada. Since these matters will remain of interest to some members of the international community, this country's record will be subject to review and criticism. No transfer of decision-making authority in the form of self-government, however comprehensive, will relieve our national community from its ultimate responsibility for the well-being of aboriginal people, as for all Canadian citizens. The discussions under way, therefore, deeply affect each of us.



Commissioners' primary focus is the compatibility of aboriginal self-government with the Canadian constitutional system. We believe that it is important, however, to consider aboriginal goals and aspirations for self-government, and the social, economic and historical circumstances out of which they have developed.

Social and economic statistics gathered by Statistics Canada and other agencies are disturbing. Life expectancy for aboriginal Canadians—status Indians, non-status Indians, Métis and Inuit—is ten years less than for non-aboriginal citizens. The incidence of alcoholism among aboriginal people in 1982 was 13 times that for non-aboriginals. About 10 per cent of the prison population is Native, a proportion that represents about five times the ratio of Native people to Canada's overall population.

The 1981 Census of Canada reported that four in ten aboriginal people had never attended high school; for non-aboriginal Canadians the figure was two in ten. The proportion of aboriginal income made up of government-transfer payments was more than double that for non-aboriginals. The percentage of aboriginal families headed by single parents was almost double that of non-aboriginal families. More than 16 per cent of aboriginal homes were in need of major repairs, and one in six was overcrowded; the figures for non-aboriginal homes were 6.5 per cent and one in 43, respectively.

The 1984 Royal Commission Report on Equality in Employment<sup>1</sup> found aboriginal people concentrated in low-paid, low-skill jobs, with aboriginal men earning 60.2 per cent of the average income for non-aboriginal men, and aboriginal women earning 71.7 per cent of the average income for non-aboriginal women. In this Commission's hearings in Victoria, the United Native Nations, a B.C. provincial organization representing off-reserve, non-status Indians and Métis, told us that 60 per cent of Native people living in Victoria were unemployed, 82 per cent lived under the poverty line, and 95 per cent had not completed Grade 12.<sup>2</sup>

Many aboriginal groups argue that census and survey statistics such as these reflect the fact that Native peoples live in a culture not their own, where important decisions affecting their lives and their children's futures are beyond their control. Witness after witness appearing before the House of Commons Special Committee on Indian Self-Government in Canada (the Penner Committee) in 1983 spoke of a "legacy of injustice, exploitation, bureaucratic insensitivity and non-Indian self-interest".<sup>3</sup>

Although relations have evolved between status Indians living on reserves and the Government of Canada, they remain circumscribed by the Indian Act which was first enacted in 1876. The Indian Act is based on federal jurisdiction as laid out in the Constitution Act, 1867, section 91(24): "Indians, and Lands reserved for the Indians". Until the end of the Second World War, the Indian Affairs Branch took a custodial approach to its responsibilities for Indians. Indeed, benign neglect and indifference often characterized the administration of Indian affairs. However, several factors led to gradual changes in attitudes and policy toward Indians after the war: there was increased acceptance of a positive role for the state in promoting the economic and social well-being of its citizens; governments acquired greater administrative capacity; citizens became more conscious of their

rights; and the end of formal European colonialism in Africa and Asia helped to focus attention on the conditions of indigenous peoples elsewhere.

The federal government revised the Indian Act in 1951. Then, in 1960, it extended the vote in federal elections to all Indians; prior to that date, status Indians had usually been required to give up their status to obtain the right to vote in federal elections. The tempo of policy change quickened during the 1960s. The federal government made groping attempts, reflected in policy initiatives, policy reversals and new programs, to come to terms with the long history of neglect toward Indians under federal jurisdiction. It set up community-development programs and Indian advisory boards, increased its grants to Indian bands, and transferred some responsibilities to provincial governments. These steps met with mixed success.

In 1966, a thorough examination of the conduct of Indian affairs, *A Survey of the Contemporary Indians of Canada* (Hawthorn Report),<sup>4</sup> recommended rejection of assimilation or integration as a policy option in favour of retaining special status for Indians. The report suggested that Indians should be regarded as “citizens plus”: they should possess general rights and duties of citizenship, and additional rights as charter members of the Canadian community. The report recommended that the Indian Affairs Branch ensure that the “plus” aspects of Indian citizenship be respected. In its 1969 *White Paper on Indian Policy*, however, the federal government adopted a different approach, recommending repeal of the Indian Act and the special status it afforded Canadian Indians. The Indian people resisted the 1969 proposals, and the federal government subsequently dropped them.

A policy of devolution, or the transfer to individual bands of responsibility for managing and delivering services, began in the late 1960s and continued through the 1970s. Funds from the budget of the Department of Indian Affairs and Northern Development, administered by bands, increased steadily from \$34.9 million in 1971 to \$526.6 million in 1982–83, a fifteen-fold increase. Although the federal government passed responsibility for delivery of services to the Indians, it kept control of programs and budgets.

During the 1970s, grants and contributions to bands and associations, as well as to provincial governments, more than doubled as a percentage of the Department’s budget designated for Indian and Inuit affairs. This is testimony not only to the transfer of responsibility but also to increased federal funding of Native associations. Extensive government financial support for political organizations, channelled primarily through the Department of Indian Affairs and Northern Development and the Secretary of State, eventually allowed status and non-status Indians and Métis to articulate their demands for reform. This politicization has made both aboriginals and non-aboriginals much more aware of the needs of Canada’s Native peoples.

Financial support for political organizations helped mobilize aboriginal peoples. Métis and non-status Indians became increasingly visible in political life in the 1970s as the concept of “aboriginal” evolved and grew to encompass a much larger population than just status Indians. This broadened understanding of aboriginal ethnicity led to the inclusion of Indian, Inuit and

Métis peoples in the constitutional definition of "aboriginal peoples" contained in section 35 of the Constitution Act, 1982.

The enlarged definition of aboriginal peoples has compounded the difficulties in thinking about their many problems and grievances. It is difficult, for example, even to define and assess the size of the component groups. The constitutionally recognized categories of Indian (status and non-status), Métis and Inuit are ambiguous. Status, or registered, Indians are persons accorded status by the Indian Act whose names are recorded on a register kept by the federal government. The 1981 Census reported approximately 290 000 status Indians. However, Department of Indian Affairs and Northern Development 1985 population projections place the number of status Indians at 366 000. The Inuit, approximately 25 000 in number, live beyond the tree line. They comprise a distinct cultural group, and a substantial majority of them speak Inuktitut.

The boundaries of the remaining two categories of aboriginal peoples overlap and are indistinct. Non-status Indians are formerly registered Indians who lost their status through enfranchisement, Indian women who lost their status through marrying non-Indians, or descendants of members of these two groups. The core Métis population are descendants of people of mixed aboriginal and European ancestry who lived in Western and Northern Canada and possessed a distinct socio-cultural identity in the nineteenth century. However, there is no universally accepted definition of "Métis". The term is sometimes used to refer to all people of mixed aboriginal and non-aboriginal ancestry who lack legal Indian status. As a result, non-status Indians sometimes identify themselves as Métis and vice versa. Using self-identification, the 1981 Census counted approximately 173 000 Métis and non-status Indians; but other estimates range as high as 300 000 to 435 000. Métis and non-status Indian organizations, in particular, dispute the 1981 Census figure. For instance, in Ontario alone, the political organization for Métis and non-status Indians claims to represent 185 000 people. In addition to the core population of Métis and non-status Indians, between 400 000 and 600 000 others identify themselves for certain purposes as part of this group.

If and when Parliament passes Bill C-31, a bill to amend the Indian Act, it will cast into a state of flux the categories of status and non-status Indians. The federal government estimates that the amendment would permit 68 000 non-status Indians to apply for registration under the Indian Act and for the rights and benefits associated with this status. This estimate includes 16 000 women who lost their status because they married non-Indian men and 6000 people who were enfranchised under a particular section of the Indian Act for reasons now deemed unfair, such as joining the armed forces or completing university. The other 46 000 people who could apply to have their status reinstated are first-generation descendants of these people. The enlarged category of aboriginal peoples, and the fluidity of their component groups, raise complicated and serious policy questions, in particular about self-government.

Aboriginal claims for self-government are an understandable response to social, economic and historical circumstances and are in accord with the



political awakening evident in aboriginal populations around the world. Commissioners recognize the need to enhance aboriginals' decision-making capacity and autonomy, based on the distinctive place of aboriginals in Canadian society as the first peoples of Canada, and on the broadened constitutional recognition they now enjoy.

According to a research study done for this Commission,<sup>5</sup> aboriginal peoples in Canada seek greater self-determination and social justice, economic and social development, and protection of aboriginal cultures through self-government. They want greater control over their own destiny and an end to their subordination to political and bureaucratic authorities outside their own ethnic group. They seek economic development to end their poverty and unemployment, and they expect self-government to contribute to that result. They also consider self-government to be an important prerequisite in addressing social problems.

Many Canadians, who deplore the historical and continuing injustices visited on Canada's aboriginal peoples, recognize and support aboriginal goals for self-government. But while the goals are clear, the way to realize them is not. Commissioners doubt that aboriginal self-government, which remains an ambiguous concept, is the surest means of achieving all aboriginal goals. Indeed, we are concerned that the single-minded pursuit of self-government might unwittingly delay the massive effort which is needed to solve the major social and economic problems of aboriginal communities. Nevertheless, the process of defining self-government has already begun within the framework of constitutional discussions; and Canadians must assess it in terms both of its capacity to meet aboriginal aspirations and of its compatibility with our system of government.

## Models of Aboriginal Self-Government

The concept of aboriginal self-government does not imply any single model or form of institutional arrangements. It is therefore exceedingly difficult both to assess the capacity of self-government to satisfy aboriginal goals and to assess the compatibility of what is still an abstract concept with the Canadian system of government and the principles of Canadian citizenship.

We should think of a continuum of models, based on the origins or derivation of authority. Near one end of the continuum is the model contained in the federal government's 1969 *White Paper on Indian Policy*: bands would acquire municipal status under provincial jurisdiction. Nearby on the continuum is the proposed legislation for band government developed by the Government of Canada following abandonment of the *White Paper* policy: a band was to be a federal municipality operating under enabling legislation and exercising delegated authority. These and similar proposals have a legislative, rather than a constitutional, foundation: on this basis, aboriginal governments would exercise delegated authority.

In contrast are proposals which give aboriginal governments a constitutional basis, with guaranteed jurisdiction similar in principle, although not necessarily in scope, to that of provincial governments. The Penner

Committee made such a proposal, recommending the establishment of Indian First Nation governments. The committee recognized the symbolic importance of the term "First Nation" to Indian aspirations for self-government and used it in its report, in order to make it more familiar to the Canadian public.

*In recent years indigenous peoples have given new expression to their distinctiveness and their origins. Names have assumed a special significance . . . Indian peoples in Canada have thus extracted from history an English term that had been used in the Royal Proclamation, in treaties and in major legal decisions in the United States—the word 'nation'. Together they refer to themselves as 'First Nations', a term with historical and political significance.<sup>6</sup>*

Although the terms of reference of the Special Committee had restricted its mandate to the study of band governments on Indian reserves, the form of self-government it recommended could be extended to any aboriginal community with a land base.

The Penner Committee recommended that "the right of Indian peoples to self-government be explicitly stated and entrenched in the Constitution of Canada." The Report stated emphatically:

*The surest way to achieve permanent and fundamental change in the relationship between Indian peoples and the federal government is by means of a constitutional amendment. Indian First Nation governments would form a distinct order of government in Canada with their jurisdiction defined.<sup>7</sup>*

The extreme position at this "constitutional" end of the continuum views self-government as an aboriginal right based on the Royal Proclamation of 1763, which in organizing governments for Britain's newly acquired North American territory had recognized aboriginal rights to lands not formally surrendered. According to this concept, aboriginal sovereignty was never relinquished, and it is the basis of self-government; the right to self-government is therefore already present in the Constitution Act, 1982, as an integral part of the aboriginal rights protected under section 35. At the Constitutional Conference of First Ministers on Aboriginal Constitutional Matters, in March 1984, for example, Chief David Ahenakew of the Assembly of First Nations stated:

*The federal government cannot give us self-government. It has never been yours to give. It has always been ours. You can recognize it, enhance it, facilitate it, but if you were to give it to us or devolve it to us or permit it to us it would not be self-government.<sup>8</sup>*

Aboriginal associations and councils participating in the current discussions have shared the position that true aboriginal self-government must have a constitutional, rather than a legislative, foundation. Prime Minister Trudeau's promise at the 1984 First Ministers' Conference to include in the Constitution the right of aboriginal peoples to self-governing institutions represented the federal government's acceptance of a constitutional basis for aboriginal self-government. However, seven provinces at the 1984 Conference did not support constitutional entrenchment.

At the April 1985 First Ministers' Conference on The Rights of Aboriginal Peoples, Prime Minister Mulroney sought support for a constitutional amendment from the required number of provinces and the participating aboriginal associations. Seven provinces seemed to be prepared to support a compromise constitutional amendment which would affirm, in principle, the right of aboriginal Canadians to self-government, within the context of the Canadian federation; it would, however, leave to a political accord any further commitment to negotiate terms of self-government. The support of a number of these provisionally supportive provinces was conditional on the acceptance of the amendment by the aboriginal associations, but this agreement was not immediately forthcoming. The Conference therefore adjourned without reaching agreement, and the question of how to implement self-government remains unresolved. A number of provinces expressed concern about how aboriginal government would be integrated into the existing institutional and constitutional structure. Nevertheless there is now a greater sense that the federal and provincial governments are prepared to accept the goal.

## **Implementing Aboriginal Self-Government**

Everyone engaged in the debate about aboriginal self-government recognizes that if and when agreement is reached on the basis of authority for aboriginal governments, legislation will have to provide for the recognition and implementation of this new status. Such legislation must state how membership in self-governing aboriginal communities will be determined, stipulate the means of recognition, and define the powers to be exercised.

There have been discussions between the federal government and Indian representatives on legislation to establish the framework of Indian Nation governments. Bill C-52, which dealt with self-government for Indian Nations, died on Parliament's order paper in June 1984; it was a first attempt to formulate such a framework. Although this draft legislation pertained only to Indians and not to the wider aboriginal community, it did not settle the form and substance of self-government for even this one component group. Proponents of self-government recognize, moreover, that since the varying aspirations and diverse circumstances of different Indian and other aboriginal nations throughout Canada may require different types of arrangements, each aboriginal government could possibly exercise a unique set of powers. The Penner Report, Bill C-52 and Prime Minister Mulroney, in his call to proceed on a case-by-case basis, have each recognized this possibility.

Most discussion of self-government assumes the existence of a land base or a territorially defined jurisdiction. However, aboriginal self-government which requires a land base would exclude a large heterogeneous segment of the aboriginal population: most non-status Indians, those Métis living outside communities where they form a majority, and the approximately one-in-four status Indians who do not live on Indian reserves or Crown-land settlements. Their interests might be overlooked by an approach to self-government which concentrates on a land-based model.



The size and wealth of existing status-Indian and Métis communities (which differ greatly in population, extent of land base and natural resources, level of community and personal wealth, and geographic remoteness) impose additional constraints on land-based self-government. Seventy-two per cent of the status-Indian population, approximately 216 000 individuals, live on more than 2000 reserves. There are 579 bands, which are generally recognized as the principal units for self-government; their average population is 516 members, but 48 per cent of the bands have fewer than 300 members. The large number of relatively small communities poses many problems for self-government, including serious diseconomies of scale. Nevertheless, administrative complexities, distance between communities, cultural diversities and distinctive histories reduce the prospect of amalgamating bands.

Many of the existing communities have only weak fledgling economies. Even after receiving land-claim settlements, resource revenues and any additional land grants from governments, many communities will need ongoing financial assistance. Most of the local communities that might receive powers of self-government are, in effect, small villages with limited resources.

It is difficult to conceive of a form of self-government that is not territorially based. However, if our goal is to provide greater autonomy for all the aboriginal people of Canada, we cannot ignore the fact that many of them (perhaps 75 or 80 per cent, according to one estimate)<sup>9</sup> lack a land base or live outside communities where aboriginals represent a majority. Indeed, aboriginal leaders, especially some Métis, have tentatively begun to explore possible forms of self-government which are not territorially based. Self-government premised on jurisdiction over individual dispersed citizens could, for example, grant taxing powers or make unconditional transfers to one or more pan-Canadian aboriginal authorities which, in turn, could deliver services or make transfer payments to individual aboriginal Canadians. Once constitutional discussions have more clearly defined the aboriginal and treaty rights which are recognized by section 35 of the Constitution Act, 1982, pan-Canadian aboriginal authorities could assume some form of responsibility based on any, or all, of these rights. Commissioners remain sceptical, however, that Canadians can develop workable models which would be both acceptable to the Canadian aboriginal community and reasonably efficient, and which would respect Canada's constitutional order. Accordingly, while we do not entirely reject the idea of limited self-government without a land base, we believe that other solutions will have to be found to solve the problems and satisfy the aspirations of the large majority of the aboriginal population who cannot look forward to a territorial jurisdiction.

How would self-governing, land-based aboriginal communities relate to federal and provincial governments and to the intergovernmental system? Aboriginal governments might exercise either constitutionally based authority or delegated authority. Such governments would almost certainly differ from one another in the extent of their jurisdictions and might also differ in their respective mixes of national and provincial jurisdictional powers: under

section 91(24) of the Constitution Act, 1867, Parliament could delegate jurisdiction that was otherwise provincial to such self-governing communities. Moreover, it could do so in varying degrees for different communities and in combination with varying amounts of delegated federal jurisdiction which would continue to apply to other Canadians. In its report, the Penner Committee proposed that "Parliament should move to occupy the field of legislation in relation to 'Indians, and Lands reserved for the Indians' and then vacate these areas of jurisdiction to recognized Indian governments." The report recommended that this be done "in all areas in which Indian First Nations wished to exercise jurisdiction."<sup>10</sup>

Although the legal and constitutional situation is complex, the federal and provincial governments might be able also to delegate special mixes of powers to those aboriginal communities which are not covered under section 91(24) of the Constitution Act, 1867. The complexities would be further compounded if particular self-governing aboriginal communities were to bridge the gap between their jurisdictional authority and their actual administrative and fiscal capacities by arranging for either level of government to provide programs.

There are complex practical issues relating to the manner in which such governments, with their potentially distinct mixes of powers, could fit into the structure of Canadian federalism. Self-governing communities that exercise powers delegated by the federal government pose fewer problems; presumably, the federal government could act on behalf of such aboriginal governments in the intergovernmental arena. The matter might not be so simple, however, in the case of aboriginal governments which possess constitutionally recognized authority. There could develop a very large number of sovereign self-governments representing a distinct order of government. The intergovernmental complexities of federalism could not successfully accommodate even a small proportion of these governments, either at the federal-provincial bargaining table or in more focused arenas where the governments of the federal system meet.

This problem cannot easily be overcome by accepting aboriginal associations as substitutes for the leaders of self-governing communities because participants in intergovernmental arenas must possess executive authority, and must be capable of delivering on their commitments. In order for aboriginal associations to be able to negotiate and accept agreements without worrying that individual community governments might repudiate them, they would themselves have to possess the status and authority of governments. If this were so, however, the widespread premise that the local community is the essential unit of self-government would be invalidated. Accordingly, Commissioners recommend that future discussions of aboriginal self-government clearly address the issue of how to fit such governments into the intergovernmental arena.

Several problems immediately become apparent. Given that aboriginal self-governments possessed sovereign authority, the legitimacy of their members' exercising the federal and provincial franchises would be questionable if the jurisdiction of self-governing communities overlapped significantly with that of either or both orders of government. It would not be easy to resolve this

dilemma by having representatives of aboriginal constituents vote only on those matters where aboriginal governments did not wield jurisdiction; in virtually all instances, aboriginal voters are intermingled in particular constituencies with non-aboriginal voters. While all functioning political systems contain anomalies, their multiplication should not be an unthinking consequence of policy directed to other objectives. Commissioners recommend, therefore, that discussions of aboriginal self-government address its compatibility with the possession of the federal and provincial franchise.

Self-government entails recognition of the collective rights of particular aboriginal communities. This raises difficult questions about the individual rights of members of those communities. Some observers have suggested that if self-government is given a constitutional basis, then section 25 of the Constitution Act, 1982, dealing with aboriginal rights and the Charter, is relevant, and it follows, therefore, that the Canadian Charter of Rights and Freedoms does not apply. However, the federal government's draft legislation enabling the establishment of Indian Nation governments through the delegation of authority explicitly provided for Indian Nation constitutions to be consistent with the Charter. Further, it stipulated that an Indian Nation government could not pass legislation in conflict with the Charter, and that the Governor in Council would hold powers of disallowance over laws of Indian Nations.

Commissioners believe that aboriginal Canadians, even as residents of self-governing communities, must retain the rights of Canadian citizenship. This entails the full application and protection of the Charter.

In conclusion, Commissioners sympathize with the aspirations of aboriginal peoples to achieve self-government. The existing situation is clearly unacceptable, and aboriginal peoples must have a larger say in determining their own priorities and governing their own affairs. The fact remains, however, that proposals for aboriginal self-government raise issues of great complexity. A solution involving land-based self-government is inapplicable to most aboriginals. Where it could be instituted, local resources and fiscal capacity are minimal, and extensive intergovernmental transfers would be necessary.

The complexities of integrating self-governing communities into the larger Canadian federal and parliamentary systems are intimidating. We understand the revived ethnic identity that stresses differences rather than a full application of the benefits and obligations of Canadian citizenship. Nevertheless, Canada must not reverse a policy which makes available to aboriginals full citizenship rights, of which status Indians in particular were long deprived. We must respect the Charter and avoid forms of self-government which would weaken the legitimacy of aboriginal Canadians' continued participation in the wider Canadian political process. Enhancement of aboriginal autonomy must not jeopardize aboriginals' continued enjoyment of the rights of Canadian citizenship.

Commissioners do not view realism as comprising a disservice to aboriginal peoples. The complexities and difficulties of self-government warrant a more detailed consideration than they have so far received.



## Notes

1. Canada, Royal Commission on Equality in Employment, *Report* (Ottawa: Minister of Supply and Services Canada, 1984).
2. United Native Nations, Brief, September 20, 1983, p. 1.
3. Canada, House of Commons, Special Committee on Indian Self-Government, *Indian Self-Government in Canada: Report of the Special Committee* (Ottawa: Queen's Printer, 1983), p. 40.
4. Harry B. Hawthorn, ed., *A Survey of the Contemporary Indians of Canada: A Report on Economic, Political, Educational Needs and Policies* (Ottawa: Information Canada, 1966).
5. Roger Gibbins and J. Rick Ponting, "An Assessment of the Probable Impact of Aboriginal Self-Government in Canada", in *The Politics of Gender, Ethnicity and Language in Canada*, vol. 34 (Toronto: University of Toronto Press, 1985).
6. Special Committee on Self-Government, *Indian Self-Government in Canada*, p. 11.
7. *Ibid.*, p. 44.
8. Federal-Provincial Conference of First Ministers on Aboriginal Constitutional Matters, March 8-9, 1984, Transcript (Document 800-18/004), p. 32.
9. Gibbins and Ponting, "An Assessment of the Probable Impact of Aboriginal Self-Government in Canada".
10. Special Committee on Self-Government, *Indian Self-Government in Canada*, p. 59.

## Municipalities

Local governments in Canada are, to use a well-worn phrase, the “creatures of provincial governments”. Section 92(8) of the Constitution Act, 1867 gives the provinces authority over “municipal institutions in the province”. Under this constitutional head, provincial legislatures have exclusive authority to legislate on municipal matters; they cannot delegate this authority to local government or to the national government. They can, however, legislate the establishment of municipal institutions and assign to them responsibilities. Legislatures can also eliminate municipal institutions, combine them, separate them, give them added or reduced responsibilities, and increase or decrease their financial support. Strictly speaking, then, there is no constitutionally distinct municipal level of government.

But Canadian local governments are very robust “creatures” indeed. Despite their lack of constitutional status and the fragile legal basis on which they rest, they have proved an enduring feature of Canada’s governing system. Many cities existed – albeit as much smaller settlements – before the provinces or, indeed, Canada existed as governmental bodies and the provinces grew around these settlements. The most obvious example is St. John’s, Newfoundland, North America’s oldest city and the capital of Canada’s youngest province.

Local government, as this Commission was told repeatedly during our hearings, is big government. Canada’s two largest cities, Toronto and Montreal, constitute almost half the populations of Canada’s two largest provinces, Ontario and Quebec. Toronto has more people than eight of the ten provinces, Montreal more than seven. Montreal has the fourth-largest government budget in Canada, Toronto the fifth largest. Some 21 Canadian cities have more people than the smallest province, Prince Edward Island. Half of Canada’s population is now concentrated in ten cities. In terms of procurement – buying goods and services – local governments, collectively, now spend more than the federal government.

In terms of the lives that Canadians lead and the concerns they have, local government is a third order of government. To many, it is the most important order, dealing with matters of the most direct and immediate concern, and providing the most accessible and effective way to take advantage of many federal and provincial programs. Indeed, a fourth order of government has emerged: regional and metropolitan governments and authorities provide common services to citizens residing in a number of neighbouring local jurisdictions. This order, too, is a creature of provincial governments.

There is immense variety in the way in which local government is carried out in Canada. No standard rule applies. Each province has authority to make laws for municipal institutions. Each legislature is supreme in the way it uses or does not use that authority. Each province has chosen its own approach to local government, producing great diversity of approaches, both among provinces and within them. Nevertheless, the provinces have tended to be very sensitive to the successes and failures of approaches taken elsewhere. Amid variety, there is a broadly shared approach to local government from province to province. The details vary, but the general direction has been

similar. In different ways, for example, provinces have assumed the once-local responsibility for health, education and welfare.

If this system has not proved tidy, it has proved creative: each province effectively serves as a laboratory for every other province. The system has permitted a sensitive and flexible approach to local conditions. Relations between cities and provinces have been dynamic. There are, however, problems within this system. The obverse of flexibility is uncertainty. Provincial legislation affecting municipalities can, and often does, change unexpectedly. The instruments available to local governments, such as zoning, have been primarily negative or preventive rather than positive. Positive policy-making instruments rest with the provinces. Moreover, local government has become increasingly complex, because of both civic expansion and more sophisticated provincial legislation.

The federal government affects—on occasion decisively—the capacity of civic governments to carry out their tasks. Federal policy on interest rates is a critical factor in local finance. The federal government is a major landholder, landlord and developer in many cities. Moreover, local decisions can enhance or diminish the effectiveness of federal policies such as those relating to housing. Thus local-federal relations are critical both for municipalities and for the federal government.

To a significant degree, municipal governments depend on federal understanding of local needs and conditions; at the same time, the national economy is becoming more dependent on cities. Relations between local and federal governments are difficult to develop, however, because of the provinces' exclusive jurisdiction over local government. There are political and constitutional limits on the way federal and local governments can accommodate to their interdependence.

Canadian cities do face problems. Nevertheless, the vigour and dynamism of local governments and the communities they serve have created tremendous opportunities. Commissioners will deal with these problems and these opportunities in light of what we heard from representatives of local government and other concerned parties, and what we have learned from our own research.<sup>1</sup>

Canada has developed some of the most liveable cities in the world. They are clean, safe and well-equipped. Since the Great Depression, when a number of cities, as well as provinces, fell into financial difficulty, our municipalities have been well administered and financed, under provincial control and guidance.

There were many obstacles and challenges to such a happy outcome: the massive shift of people from rural to urban areas, expanded use of the automobile and resulting growth of suburban areas, a general increase in population, and the need for infrastructure to support large, complex urban societies. In addition, post-Second World War development of the welfare state complicated the picture by shifting to senior governments responsibility for matters once considered local: relief for the unemployed, welfare, health and education.

Commissioners are conscious that Canadians have been doing something right at the level of the local community, be it village, town, city or



metropolis. We make suggestions and recommendations below with this fact very much in mind. We shall look at issues that we find are of general concern throughout Canada: the constitutional status of local government; intergovernmental relations, at both local-provincial and local-federal levels; revenues and responsibilities; urban policy; and the local role in economic development. These issues are closely interconnected. Indeed, many of the possibilities in the final four areas of concern turn on the approach taken to the issue of constitutional status. We shall therefore start there.

## **The Constitutional Status of Local Government**

The fact that local governments are the “creatures” of provincial governments has far-reaching effects. The most important of these are uncertainty and legislative and institutional complexity of municipal government. Simple acts of the provincial legislature can change local government, and frequently do. Because of judicial interpretation which has prevented delegation of power to local governments, municipal acts must set out specifically what local governments may and may not do in administering policies approved by provincial legislatures. The resulting highly detailed legislation has added great complexity to local administration. “This circumstance”, Marion Dewar, the Mayor of Ottawa, told us, “is a far cry from the brief division of responsibilities between the federal and provincial governments as set out in the Canadian Constitution.” (City of Ottawa, Brief, November 31, 1983, p. 10).

One immediate consequence is that municipal councils must approve every administrative action that implements a policy and often are bogged down in administrative detail that might be better delegated. While this makes decision making more open than it is at the federal and provincial levels, it also diverts time and attention from broader questions that may affect far more of a community's citizens.

The provinces have used their authority to create not only local governments, but also a whole range of special-purpose commissions, boards and authorities. The City of Toronto, for example, has within its borders some 101 provincially created authorities. Some of the provincially created boards provide means for local citizens to appeal decisions made by local councils or other administrative boards, but such appeals are complex and expensive.

The very confined nature of municipal planning powers sharply constrains the capacity of local governments to plan in a positive way, that is, to set out development goals and standards. In effect, provincial law and judicial interpretation have confined local governments to negative approaches to the control, rather than the stimulation, of urban development. Zoning, approving subdivisions, and making land-use plans are activities typical of this approach. Such devices allow a city to prevent certain uses of property by private owners. They prevent some of the worst abuses in development, but they are very cumbersome; in fact, they may discourage and occasionally prevent some of the best types of development.

Discretionary forms of control such as spot zoning, holding zones, development reviews, and “minor” adjustments approved by committees of

adjustment have circumvented this limitation. However, as our research indicates, this tendency has transformed zoning from a system based on clearly defined rules to one based on political bargaining. Municipal councils find themselves squeezed by provincially established limits on their powers to direct development toward approved goals, private developers' plans for the use of their property, the need to expand the main basis of municipal revenue, the property tax, and the resistance of property owners adversely affected by development.

In our hearings, we Commissioners heard proposals to resolve some of these problems by giving local governments explicit constitutional status as a distinct order of government, with clearly defined powers and responsibilities. For instance, Mayor Elizabeth Kishkon of Windsor put to this Commission the City's recommendation that:

*In light of the importance of local government to the majority of Canadian citizens, both in terms of direct provision of service and as a major force in the economy, municipalities be formally recognized in the Canadian Constitution as the third level of government with a guaranteed right of existence.*

(City of Windsor, Transcript, Windsor, October 13, 1983 [vol. 25], p. 4721.)

Mayor Dewar of Ottawa went even further, suggesting that a number of Canada's major cities should become "provinces".

Commissioners did not detect, or expect, great enthusiasm from the provinces for providing the cities with clear and constitutionally based powers. We observed no enthusiasm whatsoever for transforming any major city into a province in its own right. While we agree that constitutional status could resolve a number of concerns of local governments and might simplify provincial administration by placing urban policy in the hands of the governments most sensitive to cities' needs—that is, local governments—we heard a number of cautionary voices. Dr. John Graham told us in Halifax: "We don't want another layer of jurisdiction with certain sovereign powers unto itself. Surely we have a complicated enough system." (John Graham, Transcript, Halifax, June 6, 1984 [vol. 6], p. 1275.)

Although constitutional status for municipalities might rather simplify Canada's governmental system than complicate it, Commissioners heard others question the proposal, not so much for cautionary reasons as for practical ones. Paul Godfrey, representing the Municipality of Metropolitan Toronto, put the practicalities to us this way: "We have gone through that process before . . . I do not want . . . to come out and call for a role in the Constitution because I do not believe that will happen." (Municipality of Metropolitan Toronto, Transcript, Toronto, December 1, 1983 [vol. 55], pp. 11525, 27.)

Others focused their attention and energies on matters they considered of higher priority. Michael Harcourt, Mayor of Vancouver, argued that Canada is changing from an Atlantic-based economy to a Pacific-based and more urban economy. These trends, he said, are important "whatever our Constitution says—and the Constitution is almost irrelevant in that context." (Michael Harcourt, Transcript, Vancouver, June 11, 1984 [vol. 9], p. 2123.)

Commissioners deduce from these comments and others made by representatives of other cities and by intervenors at our hearings that some local leaders favour a secure status in the Constitution. Even these leaders, however, do not expect to obtain what they wish and are inclined to seek other, more attainable objectives. Because we concur in this general assessment, we do not recommend explicit constitutional status for municipal governments. We do, however, suggest that each provincial government systematically examine relations between itself and its local governments. Together with municipal leaders, provincial governments should address the growing complexity of those governments, the insecurity of financing, and the mismatch of revenues and responsibility. Together they should look for ways to harness the undoubted capacities of municipal administrations. Such constructive discussions may well indicate that in some provinces, both municipal and provincial governments would benefit from an enhanced or a constitutional status for major cities. Should that prove so, Commissioners see no impediment to a single province seeking an amendment to the Constitution Act that would specify the constitutional status of one or more cities within its boundaries. Alternatively, a province could enter into a binding arrangement under the intergovernmental agreement clause we have proposed for the Constitution. In any case, such examination and discussion seem essential in order to improve relations between local governments and both provincial and federal governments.

To deal with the uncertainty which local governments feel about possible alterations to their powers, Commissioners recommend that provinces consider adopting special procedures for changing local responsibilities. The most straightforward mechanism would be a regulation that changes to municipal acts or city charters require approval of two-thirds of the members of a provincial legislature. In most provinces at most times, this would necessitate that the government and the opposition agree on proposed changes. An alternative, affording even stronger protection, would be a referendum either on a province-wide basis or in the municipalities affected by a major change.

## **Intergovernmental Relations**

For much of the last quarter-century, intergovernmental concern has focused on the state of federal-provincial relations. There are two other intergovernmental relationships, however, that are of increasing importance. The first is the relationship between provincial governments and local governments, and the second is the relationship between the national government and local governments, in particular the governments of Canada's largest cities.

As we have remarked, one of the social changes of the post-war years has been the urbanization of Canada. Three-quarters of Canada's citizens live in urban areas, with most concentrated in a few cities. The non-urban economic sectors, agriculture and resources, have declined in relation to the urban sectors of manufacturing and services. This trend appears likely to continue for a time.



All of these factors suggest to Commissioners that interdependence among governments will increasingly involve issues of concern to local governments. The fact that local governments have no status under the Constitution, however, impedes improvement of relations among the three orders of government. To promote the best delivery of government programs, many of them related to job creation, the federal government has preferred to deal directly with local governments. The potential advantages of a direct federal-local relationship are significant: the shorter the lines of communication between national and local leaders, the better their understanding of one another is likely to be and the greater the probability of joint success. The provinces, however, have insisted that in accordance with the Constitution, federal relations with local governments be conducted through provincial offices. They argue that even where local governments are administering federal programs or spending federal money, direct federal relations with those governments constitute an intrusion into an area of provincial responsibility. Constitutionally, this contention is correct, even if the activity in question is clearly in the federal jurisdiction. Thus conflict arises between what is practical and what is constitutional.

Since it is unlikely that the Constitution will be amended to change this situation, governments of all orders must find an alternative means to improve their relationships with one another. In fact, they have already tried a number of means. One was the tri-level conference, attended by federal, provincial and local representatives. Such conferences took place in the 1970s, but none has been held recently. Various representatives of municipalities suggested to this Commission the possibility that such conferences might be held in the future. Commissioners endorse this approach as a useful way for each level of government to appreciate the situations faced by the others. It might be advantageous on occasion, to schedule tri-level meetings in conjunction with federal-provincial First Ministers' meetings.

Another attempt to improve intergovernmental relations was the creation of a federal Ministry of State for Urban Affairs. This ministry, created in 1971, was disbanded in 1979. A number of spokespersons for local governments suggested that the federal government re-establish such a department to provide a forum for direct dealings between municipal authorities and the federal Cabinet and senior bureaucracy. While Commissioners believe that this idea has some merit, there are grounds for hesitation. The proliferation of advisory ministries within the federal administration has contributed to the growth of government, increased its complexity, and reduced the capacity of any particular advisory ministry to be either fully aware of, or to represent the interests of, those whom it was intended to represent. In addition, most matters affecting local government also affect provincial interests. The creation of a federal ministry of urban affairs, therefore, might simply improve federal-municipal communication at the cost of making federal-provincial communication more difficult. Commissioners conclude that the municipal interest lies in better communication with those ministers whose responsibilities directly affect local interests: for example, the Ministers of Finance, Transport, Public Works, Regional Industrial Expansion, and the minister responsible for housing policies.

An alternative to the creation of a new ministry might be the use of parliamentary processes to anticipate and to monitor the effect of federal measures on local administration. This means could provide a forum for the expression of local concerns and needs. It has the significant advantages that it is more open to public participation and scrutiny, including the scrutiny of provincial governments, and that it could serve to heighten ministerial sensitivity to local problems. Commissioners recommend that this task be assigned to the parliamentary committee on intergovernmental relations that we considered in Chapter 22.

Commissioners believe that local administration of a number of federal responsibilities would prove more responsive to local needs and conditions. Given Canada's Constitution, such responsibilities cannot be delegated directly to local governments, but must be routed through provincial governments. Since, however, the latter may be just as far removed from local concerns as the federal authorities, Commissioners do not believe that to delegate administration to provincial governments would always produce the beneficial effects desired. Decentralization of federal administration to federally-appointed bodies operating in the local areas is a preferable approach. Such a step has already been taken, for instance, in the management of harbours. Federal Port Authorities, established under federal legislation, are providing local administration in a manner that appears to be considerably more sensitive than that of the previous centralized administration.

Commissioners believe that similar approaches should be considered in two areas of considerable concern to municipalities. One of these areas is that of land management, where federal powers to expropriate, hold or develop land often produce development that is at variance with local priorities. In our hearings, some intervenors suggested that local authorities should have some responsibility for the management of federal properties in urban areas. We agree that local authorities, appointed by the federal government, could manage properties in a manner more sensitive both to local preferences and to local market opportunities.

A second area of concern is airport management, where the federal responsibility for air transportation has a direct effect on, and is directly affected by, local government development. Commissioners believe that in some instances, the establishment of local airport authorities might considerably improve sensitivity to local conditions, provide a more effective and integrated air-transport system, and improve service to air travellers. In Chapter 22, Commissioners recommended a Constitutional amendment to allow the delegation of constitutional authority among governments. This change would enable the federal government, through agreement with the relevant province, to delegate to local governments the responsibility for siting, developing and administering some designated airports. This arrangement differs somewhat from the federally established local authority model we considered for the management of federal lands in urban communities, but it offers a means to achieve a similar objective: greater responsiveness to local needs and conditions through decentralized administration of federal responsibilities.

Provincial-local relationships are also an issue of intergovernmental affairs. Because provincial governments must provide a legislative basis for all local government action, the provincial-local relationship involves considerable difficulty and requires considerable sensitivity. In the absence of constitutional amendments, which would allocate responsibilities to local governments, provinces should give high priority to examining, clarifying and simplifying the relationships each has with local governments. This action would serve to lighten the burden of both local and provincial administration. Most important, in Commissioners' opinion, it would be of significant benefit to taxpayers who find local concerns complicated by a maze of provincially created boards, agencies and public authorities dealing with poorly defined and shifting responsibilities.

## Revenues and Responsibilities

In 1982, municipal government expenditures rose to \$33 billion, representing, as Table 24-2 shows, over 9 per cent of the nation's gross national expenditure. Nevertheless, municipal leaders throughout the country are concerned that the anticipated expenditures they must make are vastly greater than their available resources. Municipalities have repeatedly sought sufficient fiscal autonomy, through access to sources of revenue other than the property tax, to finance the responsibilities of local government. Provincial governments, however, have steadfastly withheld that power, and so municipalities remain dependent on transfers or subsidies from the two other levels of government. Commissioners are concerned with the ways in which local governments are funded. They spend more than twice as much as they raise from taxes. This expenditure results in a dependence on revenue sources beyond their control and, consequently, uncertainty about the amount of funding provided in any given year. Long-term financial planning and budgeting is therefore extremely difficult. Moreover, municipal residents are uncertain of their ability to hold government accountable for taxing and spending.

**TABLE 24-2 Sources of Local Government Revenue, 1982**

	Billion \$	%
Property tax	10 840.9	32.1
Corporate tax	1 237.4	3.7
Other tax	282.2	.8
Total taxes	12 361.4	33.6
Grants in lieu of taxes	945.0	2.8
Self-generated revenues	4 832.5	14.3
Government subsidies	15 608.1	46.3
Grand Total	33 747.0	100

Source: Jacques L'Heureux, "The Division of Powers and Municipalities", in *Intergovernmental Relations*, vol. 63, prepared for the Royal Commission on the Economic Union and Development Prospects for Canada (Toronto: University of Toronto Press, 1985).



For a variety of reasons, Canada's tri-level transfer system makes accountability very difficult, because of the size of the expenditures by one order of government that are funded from taxes raised by another. This problem of accountability is compounded for local governments by the way in which provincial subsidies are provided. In all provinces, in recent years, more and more provincial grants to municipalities have been conditional: that is, they have been provided on the express condition that they be spent in particular ways. In effect, these conditions reduce the choice available to local governments in the matter of expenditures, which means that municipal authorities cannot be held accountable for the allocation of a large portion of their budgets.

Local governments have expressed concern about the detrimental effects of the conditional grant system on the accountability and, consequently, on the discipline of Canada's public financing system. Their more immediate concern, however, is the rigidity of the system. In Charlottetown, Alderman George MacDonald told this Commission:

*Very often, the federal [grant] programs are such that we have to start saying, "Here is the money. Start reading all the guidelines and try making up a story to get it" rather than [the Federal government] saying "What are your needs? Can we help you?"*

(City of Charlottetown, Transcript, Charlottetown, September 19, 1983 [vol. 10], pp. 2468-69.)

While Mr. MacDonald's comments point to the problems of federal-provincial-local relations and to the need for improved communication among all three orders of government, they also indicate the inflexibility that conditional grants, whatever their source, impose on local governments, particularly given the degree of municipal dependency.

There are a number of ways to balance local revenues with local responsibilities and, consequently, to provide more flexibility to local governments and to reduce the need for, and thus the rigidities of, conditional grants. One method transfers certain responsibilities from local to provincial governments. This shift has already been made, in large part, however. In 1913, for example, net expenditures by local governments amounted to almost \$14 per capita, while those made by the provinces amounted to \$7 per capita. In 1980, by contrast, local expenditures had reached the sum of \$696 per capita, while provincial expenditures had multiplied to \$2219 per capita.<sup>2</sup> These figures reflect increased provincial responsibility for health, education and welfare, and increased local spending, after the Second World War, for infrastructure and local schools. Provincial governments have also begun to assume responsibility for local school costs. Four provinces now accept virtually complete responsibility for school financing. Because many local responsibilities have already effectively become provincial, however, the possibility of further major transfers of responsibility from local to provincial governments is limited.

To change the structure of local revenues offers more possibilities for correcting the imbalance. The largest portion of local revenues, aside from grants from other levels of government, comes from property taxes. Despite

the significant advantages of these taxes, their regressive and relatively inelastic character presents considerable difficulties to local government. For this reason, sales taxes and income taxes are often suggested as means to increase local revenues; but these taxes raise other problems: administration, the taxation of non-residents, inter-urban equity, and great variations in the tax bases among communities.

This Commission believes that it would be preferable for the provinces to dedicate a specific portion of income- or sales-tax revenues for local government financing. We recommend that each province look for appropriate ways to carry out this action. While this arrangement would subject municipalities to some of the vagaries of economic conditions that beset federal and provincial revenues, a designated percentage share of these tax revenues would, in our opinion, enable municipalities to make their own economic assessments of their likely revenues as a basis for long-term planning and budgeting. Local governments would still depend to some extent on provincial grants. Commissioners also recommend that, to the extent possible, provincial governments shift their municipal financing arrangements to provide increased unconditional funding rather than conditional grants.

We believe this arrangement would enable greater flexibility and greater effectiveness in terms of local expenditures, in that local governments are better placed for, and by and large, have greater expertise in, judging what types of expenditures will best meet the community's needs and best take advantage of the unique opportunities it has. This approach is at variance with the one we take to federal-provincial transfers. However, unlike the federal-provincial relationship, in which basic responsibilities are allocated by the Constitution, the provincial-local relationship is determined by a province. That is, provinces have already established the "conditions" for municipal spending of provincial grants by establishing the responsibilities local governments must meet. To add conditions to conditions, we believe, merely increases complexity.

## **Urban Policy**

Although municipal governments are often seen to exercise the power to plan and establish urban policy, their control of planning is, in reality, constitutionally limited and their role primarily reactive. Private property owners and developers initiate development, often working along with senior governments; provincial governments control, review and generally dominate the planning process. Municipal governments can, however, determine the course of development through their decisions on services and infrastructure, such as streets and transit systems. Nevertheless, their dependence on the provinces for financial assistance limits their capacity to initiate and promote development. Municipal capital spending is scrutinized by provincial governments; and most municipal planning and urban-policy decisions are subject to provincial review.

This Commission believes that effective urban planning or policy recognizes that local governments, more than federal or provincial governments, are aware of urban issues and better able to deal with them. We

believe that in general, local governments can most effectively establish and carry out urban policy. Therefore, while acknowledging that the provinces have different systems for dealing with urban issues, we recommend that they grant greater and more general authority to local government. Commissioners also believe that a considerable reduction is desirable in the number of special purpose bodies, such as planning boards that are created by the provinces to act independently of local governments. These bodies should consolidate their functions as far as possible so that elected politicians are accountable locally rather than provincially. An increase in local authority depends, of course, on establishing greater, more secure and unconditional sources of financing, and on developing greater federal and provincial sensitivity to local needs and to the local effect of senior-government policies.

## **The Local Role in Economic Development**

This Commission believes that local government, particularly the major cities, will play a significant role in Canada's economic evolution. When deciding whether to move to a particular city or country, companies often look at more than the traditional bases of development, such as location relative to markets, available rail or air transportation, land availability and tax structure. They look also at the safety and cleanliness of a city, the quality of its restaurants and shopping facilities, and the presence of amenities such as parks, art galleries, symphony, opera, theatres, and major league-sports facilities. Canada has many advantages to attract business and investors, and the reputation of our cities is growing. At the same time, however, the attractiveness of a city—its capacity to act as a magnet for able people, particularly those with the scarce skills around which companies, industries and local employment are built—is relative and changing. Canadian urban communities must compete to remain relatively more attractive than other cities throughout the world.

Since we expect economic development to become still more urban, it is vital for provincial and federal governments to recognize that the quality of urban life in Canada is an economic asset of prime importance. The hearings and research of this Commission, however, reveal a build-up of entanglements, irritants, unnecessary restrictions and complications, and undesirable complexities, all of which may dampen the remarkable dynamism that has marked Canadian urban development in the post-war years.

This Commission recommends that each province examine and modify its own municipal government system to provide greater discretion to local governments, to simplify legal, institutional, and constitutional arrangements, and to develop clear and direct lines of communication between local and provincial decision makers. We believe that these changes would allow city governments to exploit fully their capacity to improve economic and social conditions for their citizens, for the provinces, and for Canada as a whole.



## Notes

1. For Commission research studies on municipal issues see: Stanley M. Makuch, "Urban Law and Policy Development in Canada: The Myth and the Reality", in *Labour Law and Urban Law in Canada*, vol. 51; Harry M. Kitchen and Melville L. McMillan, "Local Government and Canadian Federalism", and Jacques L'Heureux, "The Division of Powers and Municipalities", in *Intergovernmental Relations*, vol. 63 (Toronto: University of Toronto Press, 1985).
2. Kitchen and McMillan, "Local Government and Canadian Federalism".

## Conclusions and Recommendations

The more government Canadians have, the more democratic we must become. The institutions of responsible parliamentary government remain the key to keeping government our servant rather than seeing it become our master. Commissioners regard Parliament as the principal forum for public debate and intend our recommendations to contribute, in general, to the strengthening of this institution.

To restore Parliament as the principal forum for national debate, we must not only bolster its democratic processes, but we must also improve its capacity to reconcile national and regional interests. We wish neither to reassert the dominance of the national government in line with the prevailing opinion at the time of Confederation, nor to establish the provincial order of government as an integral part of national government.

With regard to federalism and intergovernmental relations, two basic needs influence Commissioners' general objectives. First, it is desirable to clarify where possible, by constitutional amendment, by delegation or intergovernmental agreement, or by more clearly defined policy directions, the responsibilities distributed between federal and provincial governments. Secondly, recognizing the complexity of modern government and the interdependence within our federation, it is desirable to introduce greater certainty and stability into existing intergovernmental processes. We seek neither to eliminate intergovernmental conflict nor to further the development of non-accountable institutions. Rather we seek to secure and give greater public recognition to minimal processes and structures that will moderate the excesses and costs of unresolved conflict and channel creative solutions to common problems.

Commissioners view the Charter of Rights and Freedoms both as a guarantee of specific rights and freedoms of citizens and as an important element of the framework within which Canadian society can evolve. This is consistent with our view that constitutional law should be responsive to social change and evolving values and attitudes, and that it should stabilize the pace and direction of such change.

## Responsible Government and Public Accountability

- The Canadian practice of party government has restricted the opportunities for Members of Parliament to participate in the development of public policy outside the confines of party caucuses. Organized special interest groups now challenge MPs as representatives and frequently bypass them.
- MPs could gain more influence over public policy if members in committee could investigate and debate matters of public interest on which party positions have not yet been established or fully determined. The separation of legislative committees from investigative committees would help to achieve this end by serving to provide Parliament and the government with policy

analysis and guidance distinct from that which is received from administrative officials or extra-parliamentary sources.

- Parliament need not diminish the activities of interest groups, but it should provide the principal public forum for these interests to define their concerns. Parliament should encourage these groups to present their positions and demands for an open examination in relation to general interests. There should be a small number of parliamentary committees focusing on comprehensive policy matters—the budget, regulatory policy, Crown corporations, and federal-provincial relations, for example—and these would be ideal forums for such scrutiny.
- Agencies such as the Public Service Commission, the Office of the Commissioner of Official Languages, the Privacy and Information Commissioners and the Office of the Auditor General have important functions, but receive insufficient direction and control from our elected representatives in Parliament. In order to ensure accountability of these agencies, Parliament must define their procedures and basic strategies. Commissioners suggest that the Public Service Commission, the Office of the Commissioner of Official Languages, and the Privacy and Information Commissioners review their work before a Parliamentary Committee on the Public Service. This committee would study the success of these agencies in meeting the various criteria set by Parliament. The same committee, since it would be familiar with the performance of these agencies, should review their financial estimates. The Public Accounts Committee would perform this role in relation to the Office of the Auditor General.
- The federal government has formalized Cabinet structures, processes and support services in recent years, in order to restore ministerial and parliamentary control over an expanded and complex administrative structure. Although central agencies have partially checked the dispersal and diffusion of power to public servants, they can do so effectively only when under the close direction of ministers; otherwise, central agencies themselves become yet another layer of bureaucracy to be controlled.
- We have given too much autonomy and discretion to non-departmental forms of government organization such as Crown corporations and regulatory agencies. Such autonomy has undermined the principles of responsible government. To correct this situation, Commissioners recommend that greater “control” of Crown corporations be defined in the context of a reformed competition and regulatory environment, and not just in the framework of administrative accountability, in accordance with the current trend. Especially for commercial Crown corporations, governments need greater strategic control, not day-to-day interference in management decisions. Moreover, Cabinet



should strengthen its review of regulations formulated by regulatory agencies.

- Although some prominent political appointments have violated the ideal of a neutral public service, it is not true that the senior bureaucracy has become politicized. The system of appointments by Order-in-Council based on professional merit on the recommendation of the Clerk of the Privy Council has worked well. However, political advice to the Prime Minister has traditionally been the basis of appointments to a large number of boards and agencies. This category may be too large; the public might be better served if more of these appointments were based exclusively on merit. An all-party group designated by the proposed Parliamentary Committee on the Public Service should review the current use of Governor-in-Council appointments to boards and agencies, the foreign service, high levels in departments, and Ministers' staffs, in order to help distinguish between two categories of positions: those where partisan sensitivity justifies political appointments, and those where partisan sensitivity is not at issue and where professional merit should prevail. Commissioners' opinion is that this general review process should be continuous, and that appointments of no clear partisan value should be made on a basis of "merit".
- In light of the accelerating challenge to democratic controls presented by the increasing international responsibilities of the state, Commissioners believe it is desirable to provide secure foundations for parliamentary ratification of international treaties and for other measures to ensure parliamentary review of executive action in the international domain. □

## **Representative Government and National Socio-Economic Interests in Economic Policy Formation**

It is important to facilitate more direct and continuous involvement of representatives of Canadian interest groups in public decision making, especially in economic policy. Those interests need to interact more with one another and to take greater account of the broader concerns and conflicts within Canadian society for the resolution of which Parliament itself is ultimately responsible.

In comparison with the formal structures that have developed in some Western nations, Canadian consultative practices tend to be fragmented, informal and episodic. Current practices may be inadequate in light of recent Canadian experience and anticipated needs, such as the continuing pressures of economic adjustment. However, we do not recommend a corporatist or tripartite style of government/private sector relations.

- Although substantial secrecy is necessary in relation to the preparation and release of the budget, Commissioners recommend that guidelines are needed to allow less comprehensive budget

secrecy than now exists. We urge the House of Commons to initiate a change in the convention of comprehensive budget secrecy in order to set in motion steps towards more effective advance discussion and consultation arrangements.

It would be desirable to seek federal-provincial agreement on the timing of budgets, so that their presentation could be co-ordinated, with the federal budget either preceding or following most provincial budgets by two or three months. Pre-budget consultation should occur in several forums, but particularly in the House of Commons.

A continuing national dialogue on general directions for economic policy requires a permanent national forum. This Commission favours establishment of a permanent Economic Policy Committee of the House of Commons. The Committee would hold an annual series of pre-budget hearings timed to allow its work to influence budget preparation. It would take testimony about the nation's economic prospects from the Department of Finance, the Bank of Canada, and the Treasury Board, as well as from agencies such as the Economic Council of Canada; it would also gather the views of major groups, including national representatives of business, labour and other associations.

- The Committee would scrutinize the government's performance and the revenue and expenditure implications of the positions of key interests. It should schedule its budget review to co-ordinate with its other responsibilities and with the timing of the annual First Ministers' Conference. Moreover, it would be necessary to adjust the internal priorities and planning cycle of the federal government in light of the accepted federal-provincial cycle.
- Continuation of sectoral and industry-by-industry dialogue on improving Canada's economy is essential. Discussions should bring together representatives of business and labour, and federal, provincial and municipal governments and other groups, as necessary. Government participation may not always be required. In light of these conclusions, Commissioners recommend that such sectoral discussions be developed within the following guidelines:
  - Consultative mechanisms should focus on clear, specific objectives. This approach will make them more likely to be successful.
  - Consultation should be a continuing process with reasonably predictable arrangements. Permanent or standing groups may be required in some cases.
  - Governments must make a firm commitment to any consultative process they undertake. Effective consultative arrangements require that non-government participants have some influence on the agenda and decision-making schedule. Responsibility for the overall policy-making process, however, rests with the government of the day.

- Consultative processes aimed at consensus building must be supported by fair representation from many groups in society and, normally, by parity between business and labour.
- Sharing and refining of information are prerequisites to these consultative processes. □

## National Institutions and the Representation of Regional Interests

Commissioners believe that the federal principle requires that the House of Commons, chosen on the basis of representation by population, be balanced by a second chamber based on representation by region. Our institutions should recognize the federal principle, provide greater regional representation, and respond to regional interests in national policy making and administration.

- Commissioners recommend that the Senate embody the federalist principle and provide the regional representation lacking in the House of Commons.
- A reformed Senate must build on our practice of party government in its elections, caucuses and discipline. The Senate must be elected, and election to the two Houses should take place at the same time.
- In the Senate, representation should be weighted in favour of the less populous regions. All regions need not be considered equal, for the Senate should only temper, not obstruct, representation by population.
- The Senate should be elected by a system of proportional representation. The governing party is more likely to have elected representatives from all regions within its parliamentary caucus, even if, for one or some regions, they secure places only in the Senate. A Senate elected on this basis should ensure that the governing party will usually be able to constitute a Cabinet that includes members from all regions.
- We recommend that Senators be elected in six-member constituencies. This number is large enough to effect the intended proportional representation and yet to allow for some recognition of the regions within provinces. Yukon and the Northwest Territories could elect their Senators on simple plurality. Existing numbers of Senators would be modified and distributed as follows:

	Existing	Proposed
British Columbia	6	12
Alberta	6	12
Saskatchewan	6	12
Manitoba	6	12
Ontario	24	24



Quebec	24	24
New Brunswick	10	12
Nova Scotia	10	12
Prince Edward Island	4	6
Newfoundland	6	12
Yukon	1	2
Northwest Territories	1	4
	<hr/> 104	<hr/> 144

- The Senate does not require a veto to temper, on regional grounds, the legislative majority of the House of Commons. Commissioners believe that the Senate should have a six-month suspensive veto, except in relation to legislation with linguistic significance; such legislation would require approval of a majority of francophone Senators, as well as of the Senate as a whole.
- If Senate reform along the lines proposed here is not adopted within a reasonable time, efforts should be made to reform the electoral system of the House of Commons to enhance regional representation. In that event, Commissioners favour the proposal of the Task Force on National Unity to add 60 members to the Commons, distributed to parties on the basis of their share of the national popular vote and allocated to provinces on the basis of the degree to which the parties were “underrepresented” in seats won, or not won, in relation to their share of the popular vote in each province. □

Many federal departments and agencies have not assumed responsibility for regional development within their mandates. This failure has lessened the executive branch’s capacity to be regionally responsive and has undermined the effectiveness of regional representation in Cabinet.

- This Commission therefore recommends that:
  - The central administrative agencies should be structured so as to provide more regional information upon which the Cabinet can base policy decisions. This requires that regional offices be part of the central agency apparatus supporting the Cabinet and the Prime Minister.
  - The Cabinet should decentralize departments and agencies for purposes of policy planning and development. Sectorally organized departments should incorporate the regional dimension fully in departmental planning and policy development. There should be regional officials in the central administrative decision-making of departments.
  - Regional representation should receive consideration in nominations to the boards of Crown corporations and regulatory agencies. If the Senate becomes an elected body, appointments of the heads of major Crown corporations and

all members of the governing boards of major regulatory agencies should be subject to the approval of a Senate committee to be established for this purpose. □

## **Barriers within the Canadian Economic Union**

Despite recent expressions of concern that the Canadian economic union is becoming increasingly balkanized and fragmented, goods, capital, services and people now move relatively freely within the Canadian common market.

While lost economic output from impediments to free movement and distortions of the common market appears small, private economic actors have indicated that the policies in question create considerable difficulties for them. Even more than the economic rationale, the political rationale for the national right to free movement is a powerful idea for most Canadians.

The effect of these distortions—and the need for effective co-ordination of economic policy—are likely to increase as Canadians face greater competition from the outside world. We should create incentives to international competitiveness, and we should facilitate appropriate adjustments.

The economic union implies elimination of internal barriers and positive measures to facilitate operation of the market, to overcome market imperfections and to pursue effective stabilization, industrial and social policies. All regions must share in the benefits of economic integration.

Internal barriers may be the response of governments to local preferences, and often reflect our commitment to redistribution of income and opportunity. Thus, the challenge, in particular cases, is not simply to eliminate the barriers through constitutional prohibition or other means, but rather, how to balance the economic benefits of free movement against other goals to which Canadians aspire. The trade-offs to be made are not exclusively between economic efficiency and political diversity or provincial autonomy within the federation: Canadian federalism also involves a national community with its own requirements. Moreover, as the Canadian Charter of Rights and Freedoms makes clear, individual rights have implications for the economic union.

The goal of regional development requires that Canadian economic policy must seek not only to maximize aggregate national income, but also to encourage the economic development of individual regions.

■ Commissioners urge that a broad view be taken of the scope of section 121 of the Constitution Act, 1867, consistent with an interpretation that section 121 covers services as well as goods and non-tariff barriers as well as tariffs. However, in light of existing controversy and uncertainty, it may be prudent to seek eventual clarification by constitutional amendment.

■ We would recommend a limited amendment to include services to reflect current conceptions of the nature of interprovincial trade. On the issue of non-tariff barriers to trade in goods and services, we recommend as an interim step that governments agree to a Code of Economic Conduct.

- The governments of Canada should develop a Code of Economic Conduct to spell out acceptable practices, set out the principles of the economic union, and provide for enforcement. We advance a series of general guidelines for consideration:
  - The code should confirm general principles of the economic union applicable to both the federal and provincial governments:
    - Reduction of barriers to the allocation of capital, labour, goods and services throughout Canada
    - Non-discrimination against persons (individuals and organizations) based on province of residence
    - Commitment to minimizing the costs of provincial programs that might fall on the residents of other jurisdictions, and to prior consultation for this purpose
  - Recognition of the need for a transportation, communications and information infrastructure to support national economic development with significant regional benefits.
- The burden of demonstrating that a barrier did not violate the principles of the Code should lie with the authority imposing the barrier.
- The Code should identify major areas where reduction of barriers to internal trade should begin. Attention should focus not only on the form of the barriers, but also on the anticipated effects. The possibilities of substitution between types of barriers are extensive, and provinces vary in economic development and in their potential to inflict injury on other jurisdictions or the residents of those jurisdictions. Those drafting the Code might first consider barriers that prevent Canadian enterprises from being internationally competitive.
- Initially governments should set up the Code, and public and governmental pressure should enforce it. The intergovernmental process would provide the appropriate forum for dealing with the politically sensitive issue of internal barriers to trade. After experience with the operation of the Code, we should move to entrench its principles in the Constitution and to enforce the Code through some other form of binding intergovernmental agreement.
- To develop the Code of Economic Conduct, monitor the state of the economic union, and explore methods for co-ordinating policies, the First Ministers' Conference should create a Council of Economic Development Ministers.
- To initiate the process of identifying and controlling internal trade barriers, Commissioners propose the following procedure. The Council will ask each government to list barriers imposed by other governments that they believe harm its provincial economy or its residents. Next, each government would be required to explain and defend those of its policies identified at the first stage. A Federal-Provincial Commission on the



Economic Union would receive this material, and would analyse the barriers, their probable consequences, and the justifications declared. The Commission would identify violations of the principles of the economic union and make recommendations concerning specific terms for the proposed Code. It would send this report to the Council for action.

- A Federal-Provincial Commission on the Economic Union which would serve the Council of Economic Development Ministers would have responsibility for preparing materials for the Council as directed:
  - Analysing the first round of barriers identified by the Council's initial inquiry
  - Initiating research on the state of the economic union and methods for improving it
  - Receiving complaints from groups, individuals and corporations affected by government actions threatening the economic union, investigating them, and reporting on them, with recommendations, to the public and the Council.

If a Code is eventually made legally enforceable, the Commission could become a regulatory agency, but one that regulates governments. □

## **Economic Management**

In several specific areas related to our concern with the international environment, the Canadian economic union, and economic adjustment, Commissioners believe that constitutional changes are desirable for more effective economic management; Canada requires a procedure which would allow treaties, once concluded, to be binding and enforceable on both federal and provincial authorities within Canada.

■ We recommend a constitutional amendment to provide that where a proposed treaty contains provisions that require implementation by provincial legislatures or affect rights within areas of provincial jurisdiction, the relevant sections should be ratified by provincial legislatures. We propose the application of the amendment formula for this purpose so that sections of a treaty imposing obligations on provinces would come into effect on the passage of resolutions in the legislatures of two-thirds of the provinces, representing at least half of Canada's population. We do not see this recommendation as having immediate application to negotiations with the United States on a free-trade agreement. We would recommend, however, that a constitutional solution be in place before the proposed trade agreement would come up for review in the 1990s.

■ To clarify jurisdiction and roles in the field of telecommunications, we recommend concurrent jurisdiction with federal paramountcy.

■ To clarify responsibility regarding certain aspects of overall regulation of trade and commerce, we propose that section 91(2) be amended to provide explicitly for federal regulatory power over competition and product standards.

■ If intergovernmental agreement is not reached soon on the harmonization of regulations respecting interprovincial trucking, we recommend that serious consideration should be given to bringing this matter under federal jurisdiction. □

## Equalization

The principle of equalization, an essential element of Canadian federalism, represents a commitment to all provinces that economic misfortune will not undercut their constitutional role. It contributes to a true decentralization of government functions, in spite of the differing economic capacities among provinces.

Commissioners stress the distinction between equalization payments and regional development programs. The former are intended to offset economic disadvantages, while the latter are intended to reverse this disadvantage. Equalization payments are necessary only because of our lack of success in combatting regional economic disparities. In practice, this means that regional development financing must be added to equalization disbursements; the federal government should not cut one in favour of the other.

■ The federal government's responsibility for interregional redistribution gives it a leading role in designing and operating the equalization scheme. Commissioners recommend that the following changes to the equalization system be discussed with the provinces:

- Canada should return to a representative tax system that includes all 10 provinces in the base. The present five-province calculation base allows too much room for distortion, strategic behaviour and unintended side-effects.
- Equalization payments should include some portion of resource revenues. There is no magic figure here, but the 20 to 30 per cent range seems an appropriate compromise, since it approximates the amounts that would accrue to provincial treasuries in the form of tax revenues if natural resources were in private hands.
- The concept of including needs as part of the entitlements calculation is attractive. Commissioners recognize, however, that this can develop only slowly, given the amount of data required and the serious practical difficulties involved. The inclusion of needs in the calculation will be especially important if the Northern territories enter the scheme. □

## Regional Development

This Commission believes that regional development must remain an essential component of Canadian policy and, indeed, of the Confederation bargain as now reflected in section 36 of the Constitution Act, 1982. It must be recognized, however, that policies intended to promote regional development have often hindered the overall efficiency of the national economy in that they impeded inter-regional adjustment and distorted regional development. Canadians need to reconsider the way in which we look at regional economic disparity, what we do to overcome it, and the institutional mechanisms we bring to the task.

- We recommend a new federal-provincial system of sharing regional development expenditures and responsibilities.
- The federal government should direct regional development programs toward improving regional productivity and the efficiency of the labour market. To these ends, such programs should include measures to improve worker and management skills, enhance research and development efforts, ensure a high level of infrastructural support, and supply assistance for intra- and inter-regional mobility. The federal government should not only provide such programs on a national basis, but should also make a special effort in the less developed provinces. While it might make sense, too, for the federal government to provide assistance for plant modernization as a means to enhance regional productivity, we believe that it should provide this type of assistance on a national basis, if at all, or that the provincial governments should take on this responsibility on a regional basis.
- Under this arrangement, the federal government would end all explicit and direct regional employment-creation programs. While national schemes would continue, federal subsidies, tax breaks, and so on, intended only to generate jobs in, or attract firms to, a particular locale, would be eliminated. Similarly, the federal government would terminate regionally differentiated unemployment-insurance programs, tax credits, and other measures that tend to distort regional labour markets. Funds formerly allocated to these types of programs would instead become the source of Regional Economic Development Grants.
- Provinces that qualify for equalization payments would be eligible for Regional Economic Development Grants. The amounts of the grants would be determined by a formula on a per capita basis, and they would be proportionate to the degree of fiscal disparity identified by the equalization formula. As noted earlier, equalization payments are necessary to offset economic disparities, while the purpose of these new grants would be to reduce future disparities. They would be renegotiated every five years.



- Provinces would assume full responsibility for local or place-specific employment measures as part of their own approach to regional development. They would be free to use the Regional Economic Development Grants for this purpose, subject only to two conditions:
  - Each recipient province would sign an Economic and Regional Development Agreement (ERDA) with the federal government, which would set out a broad economic development plan for the province (and for each other province) and would indicate the measures to be carried out by both orders of government. Some elements of these packages might take the form of shared-cost programs or federal contributions to provincial activities; in general, however, Commissioners recommend that under the ERDA umbrella, each government remain responsible for the implementation and delivery of its own programs, in order to enhance accountability.
  - The recipient province would be required to sign the proposed Code of Economic Conduct to improve the functioning of the Canadian economic union.
- While recognizing the immediate need for financial prudence at the federal level, Commissioners believe that the total federal financial commitment to regional development—combining the Regional Economic Development Grants and other funds spent through ERDAs—should increase significantly over the next few years.
- The federal government would continue to play an important role in other development efforts which have significant regional impacts such as:
  - A reformed equalization system
  - The proposed Universal Income Security Program and the Transitional Adjustment Assistance Program
  - Sectoral policies, such as those pertaining to fisheries, agriculture, and forestry. These should be designed according to criteria for good sectoral policy (see Parts III and IV of this Report) but they ought to also be developed in close consultation with provincial governments where these are affected to an important degree.
- A sustained federal commitment to regional development requires that a single central agency be responsible for injecting regional concerns into the programs of individual federal departments, and for co-ordinating federal efforts. It would appear to Commissioners that the Federal-Provincial Relations Office (FPRO) reporting to the Prime Minister, would be the appropriate existing body. We believe also that the Federal Economic Development Co-ordinator (FEDC) or other senior officials resident in each province could help to co-ordinate federal activities within each province, interacting with the provincial government and establishing links with local

economic interests. The federal government should enlarge the responsibilities of such federal regional officials, who should report directly to FPRO. □

## **Fiscal Arrangements**

### ***Tax Collection Agreements***

The Tax Collection Agreements have served Canada well. They are convenient for both citizens and governments, and they help to maintain harmony and contribute to the strength of the economic union. They should be retained. Nevertheless, the agreements are presently under considerable strain, and are in some danger of disintegrating. This Commission's proposed reforms are based on the desire to maintain the agreements, but not at an excessive cost either in terms of the accountability of legislatures or in terms of the flexibility which exists in the system.

■ Commissioners therefore recommend that:

- The agreements be amended to place the personal income tax on the same footing as the corporate tax, applying the provincial rates to the common, federally determined base. This measure would not only reduce provincial vulnerability to federal tax changes, but would also enhance provincial autonomy, since it would become easier for provinces to decide how progressive their own tax rates should be.
- The federal government consult with provinces before introducing any tax change which would have a significant effect on the federal-provincial relationship. This recommendation is consistent with Commissioners' larger concern to reduce budget secrecy for federal and provincial governments and to ensure that federal budget proposals receive wide discussion in Parliament.
- To provide greater consultation on taxation matters of a more fundamental nature, Commissioners recommend that a new federal-provincial Tax Structure Committee be given the following mandate:
  - As part of the regular process of the quinquennial review of federal-provincial fiscal arrangements, the Tax Structure Committee would re-examine the definitions of taxable income, basic exemptions, marginal tax rates, and the like. This is really an endorsement and extension of a consultation process which is already in effect. The Tax Structure Committee would also monitor the division of tax room between the two orders of government, in light of anticipated revenue and expenditure needs, and of the difficulties of managing restraint.

- As part of the overall concern for the economic union, the Tax Structure Committee could also discuss the implications of federal or provincial tax credits and subsidies. It would thus assist the Council of Economic Development Ministers which, we propose, be responsible for the development of an overall intergovernmental Code of Economic Conduct. This Committee would be composed of representatives of all governments, including those now outside the agreements. □

## **The Spending Power and the Impact of Fiscal Restraint on Intergovernmental Transfers**

Although Commissioners do not recommend formal limitations on the spending power, we consider that this power has important consequences for federalism and therefore should be exercised with special restraint and subject to certain guidelines concerning its use.

- Commissioners thus recommend that the spending power be retained as a vital instrument for flexible responses to changing definitions of the national interest, subject to the conditions that:
  - The judicial distinction between federal legislation providing grants or gifts and federal legislation involving direct regulation in fields of provincial jurisdiction is appropriate and should be further refined.
  - As a matter of principle within the federation and for purposes of accountability and clarity of roles, the federal government regard new shared-cost programs as a last resort in pursuing its objectives.
  - The use of the federal spending power in areas of provincial jurisdiction be supported by broad national consensus. In addition to the contribution to consensus which an elected Senate with stronger regional representation will make, consultation through the Federal-Provincial Ministerial Councils and, ultimately, the First Ministers' Conference is essential, not only in relation to new programs, where it will occur in any case, but also in relation to the proposed alteration or termination of a program by the federal government. Designated periods of operation of, say, five years, could be considered for program renegotiation.
  - In order to retain a desirable degree of federal flexibility and accountability to Parliament while assuring provinces some stability for planning and protection against rapid unexpected variations in federal spending, we recommend that:
    - Federal-provincial transfers be subject to a review on a five-year basis.
    - During that period, the federal power to make adjustments be limited to, say, 5 per cent in any given year, without provincial approval. □



## **Intergovernmental Relations and the Institutions of the Federation**

The intense intergovernmental conflict Canada experienced in the 1970s may be partly attributed to institutional limitations. Interdependence in modern federalism is inescapable and needs to be managed, as do the excesses of intergovernmental competition.

This Commission's goal is to encourage a more functional approach to federalism, one not oriented towards centralization/decentralization, but one which emphasizes the potential contribution of Canada's federal arrangements to the well-being of Canadians. Canadians should create political institutions to co-ordinate activities involving both orders of government.

While greater co-ordination of federal-provincial affairs would be desirable, Commissioners believe that the diversity of government action inherent in a federal state is also a positive contribution to society. Thus we have tried to strike a balance between encouraging institutional diversity or competition and proposing new measures of federal-provincial co-ordination.

■ Commissioners do not recommend comprehensive constitutional amendment as a means to modernize the division of powers. Instead, we urge the use of more flexible instruments to clarify or transfer the location of responsibility. To this end, we recommend that:

- The power of intergovernmental delegation be expanded so that, on a particular matter, law-making authority could be delegated to another jurisdiction. Such delegations should be approved by the legislatures of all jurisdictions involved
- Constitutional amendment be used to establish a procedure that would permit the Parliament of Canada and provincial legislatures to enter into intergovernmental agreements that would be binding on their successors
- The powers of reservation and disallowance, now by convention virtually "dead letters", be formally interred by means of an appropriate constitutional amendment.

■ To provide essential recognition of the need to manage intergovernmental interdependence, and the need to co-ordinate policies and activities, the First Ministers Conference should be established in the Constitution with the requirement that it meet at least once each year. Such an institution must in no way encroach on the principles of responsible government.

■ First Ministers may eventually wish to consider the creation of a body comparable to the Advisory Commissions on Intergovernmental Relations in the United States and in Australia. "Third parties" of this nature may facilitate behind-the-scenes resolution of intergovernmental conflicts and contribute to improving the context of information, analysis and public opinion to which the intergovernmental process will need to respond.

■ Despite a plethora of federal-provincial bodies, current intergovernmental discussions are sporadic and lack co-ordination. Our purpose is to suggest a core framework of federal-provincial mechanisms which, in a more streamlined way, would support the First Ministers in their collective and individual responsibilities. Commissioners propose that the First Ministers' Conference appoint a network of Councils of Ministers to serve in major functional policy areas and to be supported by continuing committees of officials. We believe that three central Ministerial Councils should be established in the fields of Finance, Economic Development, and Social Policy. We therefore recommend that:

- The *Council of Finance and Treasury Ministers* which now exists and meets from time to time regarding fiscal arrangements, economic projections, and macro-economic policy be formalized to encourage greater regularity of assembly, better co-ordination of budgetary preparations, and to receive the findings of the new Tax Structure Committee, which would monitor tax developments
- The *Council for Economic Development* seek agreement on common objectives in economic development and trade policies and identify opportunities for mutually beneficial links among regions. The Council would be responsible for monitoring and assessing the state of the economic union and would serve as the vehicle through which to develop a "Code of Economic Conduct".
- The *Ministerial Council on Social Policy* consider all facets of social policy, especially in the fields covered by Established Programs Financing and the Canada Assistance Plan. Consultation with practicing professionals and interested groups and individuals is particularly important in this area. We would encourage Parliamentary Committees to play a stronger role in this activity.
- To ensure that governments are held accountable for their conduct of intergovernmental affairs, Commissioners recommend that Parliament and the provincial legislatures should establish permanent standing committees responsible for Intergovernmental Relations. □

Differing provincial regulations create inconvenience for those who wish to operate nationally. The impetus for interprovincial efforts towards harmonization must arise through the pressure of groups adversely affected by interjurisdictional variations. Commissioners therefore propose no specific institutional changes designed to enhance harmonization of provincial laws.

## The Charter of Rights and Freedoms

### *The Charter and Constitutional Government in Canada*

The Charter of Rights and Freedoms signals a significant transformation of the relationship between citizens and the state in Canada. Most noteworthy are the important limitations imposed on the constitutional authority of legislatures and the elevated role of the judiciary as guardians of the constitutional rights and freedoms of individuals. The Charter will also further the rights of citizens to review and assess government actions, and it will contribute to a fuller and more regular discussion of citizen rights in Parliament. Its guarantees will probably become the basis for individuals and groups to introduce issues to the national and provincial political agendas.

The scope and application of the Charter will be tested constantly through both the legal and political processes. The Charter is not, however, a springboard for unlimited claims of citizen rights, for there are reasonable limits to its guarantees. Ultimately, its effectiveness in protecting the rights and freedoms of citizens and in enhancing democracy will be determined by the way in which citizens use this document.

■ This Commission believes that the changes recorded and introduced by the Charter should be given a broad scope in interpretation and application. Departures from its guarantees should meet stringent tests and conditions, justifying the circumstances of exception.

■ The Charter's general override provision should contribute to public awareness of legislation limiting the constitutional rights of citizens in Canada. Overriding legislation should include a declaration of intent to legislate, notwithstanding a provision of the Charter, and should include not only reference to the specific rights being overridden, but also an indication of the purpose of such legislative action. Such a statement of purpose would help the courts to ensure that limitations do not exceed what is necessary to achieve their objective; it could also be a useful reference point in discussions on whether to extend the override after the five-year period.

■ Commissioners do not suggest constitutional amendments to change and improve upon the Charter's words. Rather we consider various interpretations of the Charter which we think will serve to maximize the desirable impact it can have on Canadian society. Two examples illustrate our approach:

- We favour a broad and flexible application of the Charter at the periphery of government activity, as well as in its more visible legislative forms.
- Similarly, in the matter of the Charter's guarantees of personal mobility rights, we conclude that preferential provincial employment schemes permissible under the Charter should be



strictly limited to the socially and economically disadvantaged within a province. Such programs should not preclude the federal government from simultaneously pursuing employment-opportunities programs in that province. □

Inherent in the Charter of Rights and Freedoms is an attempt to overcome some of the problems of national unity that have pre-occupied Canadians since the mid-1960s. This is especially evident in the Charter's provisions respecting mobility rights, official languages and minority official-language education, as well as multiculturalism.

With regard to ethnic diversity in Canada, Commissioners believe that multiculturalism policy should seek to create circumstances that permit all Canadians to preserve and enhance their cultural heritage within the broader Canadian tradition of individual equality. Multiculturalism is not a justification for cultural or racial discrimination. For visible minorities, in particular, racism must be addressed through more than multicultural policy. There is a systemic aspect to racial discrimination in Canada. As with other patterns of systemic discrimination affecting groups such as women, the handicapped and other identifiable groups, the Charter plays an important role as both an educative and legal instrument in enhancing equality.

The Charter's equality-rights guarantees embody a broad definition and understanding of equality. These guarantees reflect contemporary notions of substantive equality in giving assurance of equal benefit of the law and equality under the law. By enabling affirmative action programs, the Charter responds to contemporary concerns about discrimination against various groups in society.

■ Commissioners believe that governments have a leadership role to play in breaking down these patterns of discrimination and we believe, too, that affirmative action is a valuable tool for this purpose. Accordingly, we view the provision in the Charter enabling governments to pursue affirmative action programs as a valuable reinforcement of government's role. Equality, however, must ultimately relate to individuals, and affirmative action must be supplemented with other programs designed with individual equality as the ultimate goal.

■ The Charter both contains guarantees of individual equality and elsewhere recognizes special rights of various groups, such as official-language minorities and Canadian aboriginals. We believe that when group rights are inconsistent with rights of individual equality, the latter, as a general rule, should prevail. □

## **The Supreme Court of Canada**

The members of the Supreme Court of Canada do not perform representative functions in the Canadian institutional and constitutional system. Judicial merit alone is the criterion by which the Court's membership and performance should be assessed. Accordingly, Commissioners reject arguments that the composition of the Supreme Court should be regionally representative.

Existing provision in the Supreme Court Act for the appointment of Quebec members is based on the distinctive legal traditions of that province. We also reject socio-economic representational claims about Supreme Court of Canada membership, which we anticipate may emerge as the Court addresses complex Charter litigation involving citizen-state relations.

The central issue in the appointments process is the perception that it does not adequately involve the constituencies ultimately affected by Supreme Court decisions. Although the existing informal procedures followed by the Prime Minister before making appointments to the Supreme Court do involve extensive discussions, they are sometimes perceived as not taking sufficient account of concerned interests or advice. Measures to shift responsibility from the Prime Minister to some designated group or institution necessarily involve replacing one political process with another. If a broadly based political process of consultation is to be replaced by alternative arrangements, an elected Senate has much to commend it.

■ The constitutional status of the Supreme Court and, in particular, the independence of the Court, should be clarified by entrenchment, although there is no reason to remove responsibility for the administration of the Court from the federal government. □

## Quebec

### *The Distinctive Character of Quebec Society*

Quebec is characterized by the presence within its borders of a largely francophone population which controls and gives direction to its own political and social institutions. The existence of this institutional framework which reinforces the distinction between the majority status of francophones within Quebec and the position of francophones elsewhere in Canada is central to *la spécificité du Québec*. The very essence of Quebec society lies in the fact that it is the principal, though not the exclusive, focus for the political dimensions of French life in Canada. To a large extent, Quebec remains a linguistically isolated society, an island of French in an overwhelmingly anglophone sea. For Quebec and for francophones outside the province, the central challenge will always be how to remain French in North America.

This challenge entails practical problems in the cultural and economic domains for whose resolution Quebecers and francophones outside Quebec, individually and collectively, are, themselves, ultimately responsible. But constitutional recognition of Quebec's distinctiveness and of Canada's duality would provide an affirmation that answers to the practical economic and cultural problems of French life can be pursued within the Canadian context and with the support of the rest of Canada. The necessary compromises could thus be worked out in a clearly understood context of recognition and affirmation of a cultural complementarity which is at the very heart of the Canadian experience.

■ The initial requirement at the level of principle to secure a renewed understanding between Quebec and the rest of Canada is

a statement in the preamble to the Constitution along the following lines:

*Recognizing the distinctive character of Quebec as the principal, though not the exclusive, centre for Canadian francophones and accepting as fundamental the duality of the Canadian federation . . .*

### ***Fundamental Guarantees***

As a consequence of Quebec's uniqueness, steps should be taken to ensure that no future constitutional amendment as noted below be imposed on Quebec which that province might consider to affect its fundamental interests as a distinct society:

- Concerning transfers of legislative powers from the provinces to Parliament, the simplest means to provide Quebec with the necessary protection, without putting the principle of equality of the provinces in question is to grant each province the right to opt out of any general arrangement with full compensation in all cases.
- In relation to reforms of national institutions which are not covered in the present opting-out formula, the only means to protect the interests of Quebec is through the right of veto. An obvious solution would be to grant all provinces such right in conformity with the equality principle. In the long run, this move could, however, freeze the natural development of our national institutions. Although granting Quebec the right of veto is an arrangement politically more difficult to obtain, it is closer to the intended objective, for it is the distinctive character of Quebec society for which protection is sought. It is important that Quebec have a right of veto on any amendment to the institutions described in section 42(1) of the Constitution Act, 1982, if such an amendment touches on the special character of Quebec and the duality of Canada. One method of implementing such veto would be to amend immediately section 47 of the Constitution Act, 1982, in order to grant French-speaking Senators the right to block proposed amendments affecting Quebec under the double-majority formula described below.

### ***The Senate and Quebec***

- With regard to federal legislation, any proposed bill with linguistic implications, before becoming law, should require a double majority of the Senate: that is, the approval of a majority of all Senators and of a majority of francophone Senators. Such veto would be a full rather than a suspensive veto. In light of the protection offered by this double-majority proposal, Commissioners see no need for specific guarantees to Quebec of a certain proportion of seats in the House of Commons.



## *Division of Powers*

- Because of Quebec's distinctiveness, the most obvious fields where conflicts may arise between that province and the federal government are education, external relations, immigration, communications and culture. There are ways in which Quebec could participate in dealing with these areas. While we make no recommendations, we do suggest that legal mechanisms such as delegation and inter-governmental agreements may provide a better means of accommodating the specific interests of Quebec than would constitutional amendment.

## *Francophones Outside Quebec*

- The diverse communities of Francophones in Canada outside Quebec are currently in a state of crisis. If they are to survive and flourish, prompt action is required. Commissioners suggest that beyond recognizing the principle of duality in the Preamble, governments should make efforts to extend the recognition of French and English as the official languages of individual provinces. Ontario in particular, with its large French-speaking population, should proceed promptly to implement official bilingualism. Such a step would set an example for other provinces.
- Scattered French-language communities outside of Quebec face difficulties in developing a French-language working environment. Efforts to solve this problem should be geared towards the development of French-language centres of activity. These centres would vary from province to province, depending on the population and geographic concentration of francophone Canadians. In some areas, the centres would be of an essentially cultural or educational nature, and in other areas, such as in New Brunswick, they could include a strong economic component.
- Furthermore, this Commission wishes to point out that implementation of language rights has not kept up with the intended policy of bilingualism. We believe that litigation, while generally useful, is not the proper tool for making improvements in this direction, since it is a lengthy and costly method of dealing with these problems.
- Instead, we recommend that stronger support be given to the role of the Commissioner of Official Languages. □

## **Aboriginal Self-Government**

Measures to increase the influence and control exercised by aboriginal people over their social and economic affairs are desirable. Our commitment to this objective is based on the distinctive place of aboriginals in Canadian society

as the first peoples of Canada and on the constitutional recognition they now enjoy.

Institutional reforms to enhance the autonomy of aboriginal peoples focus on the idea of self-government. Implications of aboriginal self-government for Canada's overall institutional framework and, in particular, for the three pillars of the Canadian constitutional order, Parliament, federalism and the Charter, have not yet been clarified. Indeed, many important issues have been avoided and should be addressed more squarely. The fundamental changes to our national and provincial institutions that are now being contemplated need broad Canadian understanding if they are to be acceptable in the long run. The pace of discussions, as well as the comprehensiveness of debates in Parliament and the legislatures should reflect this concern.

## **The Northern Territories**

The economic, social and environmental challenges of development in Northern Canada will remain of continuing concern to Canadians. From an institutional perspective, significant questions must be addressed—some of these in the near future.

■ No Canadians—Natives and non-Natives, Northerners and Southerners—can be well served by further delays in the settlement of aboriginal land claims. Final agreements affirming and delimiting aboriginal rights should be actively encouraged. If necessary, deadlines should be established by the parties, and discussions could proceed without reference to the issues of legislative powers, sovereignty and special political status, which could be dealt with subsequently in other settings.

- The Yukon Act and the Northwest Territories Act should be amended to reflect the current practices of responsible government in Yukon and to encourage comparable evolution in the Northwest Territories. In both territories, new formula-based financial arrangements should be negotiated, to increase the predictability of transfers and to promote genuine responsibility and accountability for expenditures.
- On the basis of federal commitment to the ultimate goal of some form of provincehood in the Northern territories, the governments involved should establish a timetable for the transfer of provincial-type responsibilities in areas such as health, labour relations, inland waters, renewable resources and the institution of criminal proceedings. Additional measures should be taken to:
  - Advance the process of transferring to territorial governments responsibilities for Crown lands that do not bear directly on the national interest and that have not been ceded to the Native people through claims settlements

- Institute resource-revenue/sharing arrangements comparable to the types of agreements worked out with Nova Scotia and Newfoundland
- Confirm participation of the territorial governments in federal-provincial forums where matters of direct concern to Northern residents are being discussed. Joint-management arrangements may be valuable transitional procedures.

■ Failing an internally generated and ratified agreement on division of the Northwest Territories, the federal government should establish an independent boundary commission to recommend a boundary on the basis of arguments from the two constitutional forums. Subject to the spirit of the Canadian constitutional tradition and the need to recognize the essential quality of Canadian citizenship, the structure of post-division government should be left to the discretion of the respective constitutional forums. □

## Municipalities

Local governments are an enduring and important feature of government in Canada, despite their lack of constitutional status. Variations in approaches to local government in different provinces have permitted sensitivity, dynamism and creativity in the city-province relationship. Existing arrangements have contributed to the development of some of the most liveable cities in the world. Local governments have experienced uncertainty and frustration because of limited policy-making instruments and their relations with provincial and federal governments, but responses to current concerns must begin from the premise that we have been doing something right. Canada's major cities should be provided with the legal, financial and institutional means to fulfill their economic development role. By and large, this involves removing constraints that prevent their involvement in development.

■ Although Commissioners do not recommend changing the constitutional status of local governments, the federal and provincial governments should increase the involvement and responsibility of local authorities. The federal government should review with the provinces the possibility of occasional tri-level conferences; improve communications between municipalities and ministers whose responsibilities affect local interests; assign responsibility to investigate the significance of local concerns in national policy to the proposed Standing Committee for Intergovernmental Relations; and explore opportunities for the decentralization of specific responsibilities, including airports and federal urban properties to federally-appointed local agencies. The use of the delegation amendment, as Commissioners have earlier proposed, may become a means to delegate directly to local



governments responsibility for such questions as siting, development and administration of some airports through agreement with the relevant province.

■ The provincial governments should continue to assess possibilities for assuming financial responsibility for requirements greatly exceeding local revenue sources. Commissioners also recommend that the provinces examine ways to designate a specific portion of income or sales-tax revenues for local government financing. Commissioners believe that revenues to local governments should be increasingly unconditional. □

## COMPENDIUM OF CONCLUSIONS AND RECOMMENDATIONS

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*For the convenience of the reader, the "Conclusions and Recommendations" from each part of this Report are collected here.*







## Global Outlook

### Conclusions and Recommendations

As we peer into the future, there is only one central fact about which we can be reasonably certain: there are powerful forces loose around the globe that will profoundly affect the lives of all of us here in Canada. The global outlook is full of danger signals; a majority of the world's citizens are facing very troubled prospects.

Commissioners have noted two very distinct trends in world affairs which are disturbing when viewed together. The world today has become more interdependent in economic, social and technological matters. We all share problems and opportunities as global citizens. However, the political will and international institutional machinery have not kept pace with this growing interdependence. While Commissioners are not alarmed by this divergence, we are concerned that it be recognized, and that steps be taken to rebalance altruism and self-interest on the international stage.

In entering what may well be a very turbulent period, Canadians occupy a privileged position that may make the prospective problems of the global community appear quite remote. We enjoy a comparatively high standard of living; we possess abundant natural and human resources; and we have in place a political fabric and institutions that up to now have proved themselves reasonably capable of providing the framework of laws and regulations, policies and programs required to serve our national interest best.

But "no man is an island, entire of itself", as John Donne astutely observed more than three and a half centuries ago. As Commissioners noted at the outset, Canada is more exposed than most nations to developments taking place in the world, because of far-reaching links of trade, aid and diplomacy. Canadians are highly vulnerable to adverse impacts, both direct and indirect, but we are also in a favoured position, in many ways, to seize opportunities as they arise.

In addition, however, the very breadth and depth of Canada's involvement in affairs around the world appear to impose upon Canadians a special responsibility to take up the important role that may be available to us: to contribute to a resolution of some of the more critical global problems that will arise in the years ahead. This view is based on Commissioners' deep belief that the major problems facing the global community are rooted in social, political and institutional structures, values and norms. In part, Canada's contribution might be made in material forms and by way of education, training and technology. Conceivably, however, we could play an even more important role as a catalyst, in bringing other nations together to work in concert for the resolution of global challenges and problems.

As Commissioners stressed at the beginning of this section, and as we reiterate now, we can at best perceive only dimly how the future will unfold. Undoubtedly, many current projections of prospective developments and their likely consequences will prove wrong in degree or in kind. It is crucially important, however, that Canadians should carefully search out the primary forces in play around the world, constantly monitor their action and interaction, and stand ready to respond, as circumstances require, either alone or in combination with other nations. While many future developments abroad will certainly have a direct impact on our nation, in many instances we may well have greater cause for concern about the indirect consequences for us of global impacts on other countries.

This Commission underlines the importance of recognizing five critical features of the global system:

- The degree of interdependence will continue to increase in the foreseeable future, causing the domestic policies of any one country to be significantly affected and, in some instances, dominated by global forces and the policies of larger countries.
- While the eradication of poverty and famine is within the grasp of most developed nations and certainly of Canada, it is not even on the horizon for most of the world's peoples.
- The dangers and challenges identified in the physical, economic and political global environment are so significant that the general increase in well-being of all dwellers on the planet is at risk.
- The principal limits to growth are not physical, but political, social and institutional. The major challenge thus lies in the fruit of technological and institutional ingenuity.
- Global interdependence demands that decisions be based on long-term goals and be made in the broadest possible context.

■ In view of this assessment of the global environment, Commissioners urge that the fundamental global priority within the context of peaceful co-existence become the general increase of the well-being of all nations and peoples, and the urgent eradication of malnutrition and starvation.

- Given the high degree of global uncertainty that this Commission has identified, it is important that Canadians understand both the privileged position we occupy on this planet and the

human imperative this places on Canada to provide leadership in those areas of critical concern to the world, where our nation has a capacity to provide that leadership. Commissioners recommend that as a matter of high priority, Canada pursue a more activist foreign policy based on the concept that Canada now occupies a more responsible position as one of the principal powers. Combining humanitarian and pragmatic interests, Canada should:

- Seek to broaden Canadian and world understanding of the meaning of interdependence and the threats and opportunities which confront civilization. This approach includes giving higher priority to issues relating to the natural environment and especially to the implications for global well-being of the continuing population explosion.
- Vigorously support reform of the multilateral system represented by the United Nations and its specialized agencies to bring the institutional machinery into line with the substantive problems and opportunities of the future.
- Pursue bilateral and regional initiatives where these are appropriate and essentially outward-looking in a multilateral context.

■ This Commission has reviewed the broad sweep of global interdependence in an effort to identify those areas where Canadians will be offered both challenges and opportunities over the next quarter century. We Canadians must take account of this interdependence in designing our own national policies. In particular, Commissioners recommend that:

- In the decades ahead, Canada's policy makers integrate environmental decisions with those on economic development. This policy will be essential, for there is, in this Commission's view, no ultimate trade-off between economic development and the preservation and enhancement of a healthy environment and a sustainable resource base.
- Canadian economic policies be developed increasingly in a global context. This process requires a fuller recognition of the long-term and structural changes evolving, particularly in the areas of trade, technology and the role of governments, in the struggle for competitiveness. The incentives for work effort and productive contribution should be enhanced in a more flexible market environment.
- Canadian social support mechanisms and programs be designed more efficiently to accomplish the feasible task of removing the blight of poverty within Canada and to establish our national economy on a flexible, but secure, social infrastructure
- Parliament be reinforced as the principal forum for national debate and reconciliation of international, national and regional interests. □







## Canadian Opportunities in an Open World

### Conclusions and Recommendations

The global environment presents Canada with enormous challenges and opportunities. Rapid growth of imports from the developing countries, a changing trade-policy environment and domestic pressures on our trading partners for new protection imperil Canadian jobs. By contrast, growth and technical progress abroad offer us new export opportunities and chances to benefit from access to cheaper and higher-quality products than we can produce. As Commissioners noted at the beginning of this Part, the challenge is one of change, adaptation and adjustment; the opportunities may be unlimited. In light of these developments, however, the choices Canadians must make are difficult.

We Commissioners have been frequently reminded, in the course of our task, that Canada's domestic economy is largely defined by its relationship to the wider global economic system. Canada's last Royal Commission on our economic prospects captured this point:

*Something of Canada's essence is defined by its external relations. Much of its economic structure can be explained only in terms of its external trade . . .*

*The ships loading lumber on Vancouver Island or aluminum ingots on the Saguenay are reminders of how deeply our material well-being is involved in the prosperity of other countries, even outside the boundaries of North America.<sup>1</sup>*

Canada's economic development, then, as well as our government's economic development policies, are significantly affected by conditions beyond our borders. As a relatively small, "open" economy, Canada is particularly vulnerable to outside influences on its trade and economic performance. In order to foster stability and predictability in some of these external forces, successive Canadian governments have sought to develop formal rules for conducting relationships with our trading partners. The pursuit of this

objective has always involved an essential problem: How are we to reconcile conflicting priorities among national objectives and the requirements of a stable international economic system? To resolve inherent conflicts has required a continual process of negotiation and compromise at both the domestic and the international level. Governments have often had to adjust and put to positive use the constant tension between the forces of economic protection and trade liberalization.

For almost forty years, Canada has pursued a largely multilateral approach to its foreign economic policy; indeed we have been one of the strongest supporters of the multilateral system centred on the GATT and the International Monetary Fund. This approach was the most effective way to improve and secure access for our products and to instil order, stability and predictability into that process. Even on the import side, we have found that we must negotiate multilaterally to open our own market, in exchange for access to foreign markets. This action has proved a useful tool of industrial policy and has allowed for orderly adjustment of the economy through foreign competition.

To a great extent, Canadian trade policy has been, and will continue to be, developed as a trade-off between the business objective of securing improved access to foreign markets, the economic need to promote efficiency and competitiveness in the domestic economy, and the political need to maintain our sovereignty and freedom of action. The international trade and payments system largely determines the design and use of particular policy instruments. For Canadian producers and investors, there are several tests of this international system. Can our government successfully improve market access for those sectors where Canadian production is, or can be, competitive in world markets? Will it maintain current access available to Canadian producers? Will it protect producers from unfair or injurious foreign competition? Because private sector investment is necessary for growth and job creation, Canadian producers need to be confident that their access is secure, and that foreign governments will not move to frustrate the efforts to market Canadian goods abroad.

The multilateral system of rules is intended to facilitate decisions favouring adjustment and to penalize decisions favouring protection, but it needs political will to make it work. Between 1973 and 1979, the Tokyo Round of trade negotiations provided a framework for organizing political will. The negotiators sought to reduce trade barriers and to move the ongoing management of trade relations in the direction of freer trade. For the past six years, however, there has been no such framework.

A new round of GATT negotiations may be initiated, to concentrate on elaborating world trade law and removing remaining barriers to world trade, and to provide a basis for organizing political will to resist protection. The results of a future GATT negotiation are not certain, however, nor are they just around the corner. A new round of negotiations requires complex co-ordination and revolves largely around the interests of three or four players: the United States, the European Community, the less-developed countries (LDCs) as a group, and, perhaps Japan. Canada can make an important contribution, but we cannot control either the agenda or the outcome. Even to



influence the outcome requires adroit negotiators. The Community is reluctant to come to the table. The United States is eager, but as yet has no negotiating authority. The LDCs are willing, but insist on some problematic pre-conditions and do not agree on the agenda. Japan is willing, but largely because a new round would facilitate management of its trade relations with the United States and the European Community.

Canada's economic growth is critically dependent on secure access to foreign markets. Our most important market is the United States, which now takes up to three-quarters of our exports. More, better and more secure access to the U.S. market represents a basic requirement, while denial of that access is an ever-present threat. We are extremely vulnerable to any strengthening of U.S. protectionism. Early bilateral negotiations with the United States could provide opportunities for the two countries to negotiate reduction or elimination of tariff and other barriers to cross-border trade, at a pace and on a scale not likely to be achieved multilaterally in a further GATT round. Such negotiations could also be used to win agreement on rules designed to deal with special or unique problems affecting cross-border trade; they would provide a more secure shield against a U.S. policy of protection.

The pursuit of Canada-U.S. free trade is not at odds with efforts to strengthen and improve the existing multilateral framework. Rather, Commissioners see it as a complementary approach, involving concentration of our efforts and scarce resources on our most important market. We see multilateral negotiations proceeding in parallel. In our view, such a two-tiered approach is the best way to ensure that Canadian industry will win sufficient access to foreign markets to invest and grow with confidence. At the same time, it will allow us to open our market in an orderly fashion and thus ensure that trade policy does its part in encouraging the development of a more competitive and more productive economy.

Commissioners see negotiations with the United States as neither panacea nor disaster, but as a prudent course which will help to make us richer and, by making us richer, strengthen the fabric of our country and increase our self-confidence. While this course may initially make Canada more dependent on the U.S. market, it will offer our nation a more secure relationship and thus make us less vulnerable. Ultimately, it should strengthen and diversify our economy, achieving for us goals that we have long sought, but which have eluded us, largely because our domestic manufacturing sector has been too weak to attain them.

Negotiations leading to freer trade, whether pursued bilaterally or multilaterally, will be of little use if they are not supported by the right domestic policies. Our support for freer trade, therefore, depends in no small way on the recommendations Commissioners develop later in this Report. These recommendations should contribute to strengthening the competitiveness and productivity of Canada's domestic economy. Trade policy alone will not be enough.

Commissioners, like others who have enquired into Canada's relations with developing countries, see a need for Canada to take more positive action to help these countries through aid and trade measures. We have reached this conclusion, not only on humanitarian grounds, but also on the basis of our

perception of Canada's own interest. Development of stronger links with these countries through aid and trade will pay dividends to future generations of Canadians, by contributing to a more stable world environment and by nurturing future trading partners.

We believe that the approaches we recommend below will help to strengthen our country. They will allow Canadians to pursue the gradual transition from a staple economy to a fully-industrialized modern economy, living in harmony with, but distinct from, our friends and allies.

## **Recommendations**

- Having carefully considered the analyses presented above, Commissioners make the following general recommendations:
- Canadians have benefited from and contributed to the multilateral system of trade and payments developed primarily in the last 40 years, and we should continue to support that system as the mainstay of our foreign economic policy. Canada is sufficiently strong and independent, however, to pursue bilateral initiatives, including better economic relations with the United States, within the framework of multilateral relations.
- Canadian import policy in general should be based on a recognition of its costs to consumers and the costs of delaying adjustment. Canada should minimize any new protection, reduce protection gradually as part of bilateral or multilateral negotiations, and accelerate adjustment processes.
- Export promotion should be pursued aggressively and with greater reliance on private sector mechanisms, but the degree of subsidization this may involve should be within internationally accepted rules and practices.

## ***International Trade***

International trade is the life-blood of the Canadian economy. It is a major contributor to Canadian growth, jobs and real incomes. In view of the changing nature and patterns of international trade, Canadians are now confronted with several options in formulating trade policy. This Commission has identified three major approaches, each of which has several variations. Canada might:

- Maintain its present policy. It might keep to the level and type of protection currently in place, but make selective efforts both to improve access abroad and to protect Canadian industry on a limited case-by-case basis.
- Participate actively in a new round of multilateral trade negotiations under the auspices of the GATT, in order to improve and secure our country's access to foreign markets, to open up our own market, and to strengthen the legal framework for international trade.

- In addition to taking the initiative for the elimination of trade barriers at the multilateral level, open negotiations with the Government of the United States to reach an agreement on a substantial reduction of barriers, tariff and non-tariff, between Canada and the United States.

This Commission rejects any generalized move toward greater protection or toward import substitution as a general policy to insulate Canadian producers from the international economy. This approach, while perhaps the most comfortable in the short term, would lead, in the longer term, to major inefficiencies in the national economy, a loss of jobs and lower incomes, and would contribute to an erosion of the multilateral system. In our view, a policy of maintaining the *status quo* would carry the serious risk of taking Canada backwards to a more protectionist position.

■ Commissioners recommend that multilateral trade negotiations under the GATT remain a central theme of Canadian trade policy; thus Canada should move quickly to define its objectives for the forthcoming round. The GATT has served Canada well, and our nation's participation in further strengthening this international system of co-operation is a general insurance policy for the future. Broadly stated, Canada's objectives should include:

- A more ordered world trading environment: that is, sufficiently stable, predictable and transparent international trade relations to instil a degree of business confidence that will lead to job-creating investment
- More secure access to our major markets, particularly the U.S. market
- Improved opportunity for the further processing of our natural resources before export, by reducing foreign barriers to manufactured goods
- Improved access and trading conditions for agricultural and fishery products
- An improved framework of international rules which will encourage orderly adjustment in the Canadian economy.

■ Commissioners recommend that the Government of Canada, at the same time it undertakes an initiative at the multilateral level to eliminate trade barriers, open negotiations with the Government of the United States to reach agreement on a substantial reduction of barriers, tariff and non-tariff, between Canada and the United States. Such an agreement would have to stand within the terms of Article XXIV of the GATT, and it would provide for a reduction of barriers between the two countries, but would leave each country with freedom of action to maintain separate trading policies with other economic partners. We do not recommend a more intensive arrangement such as a common market or an economic union, where even closer integration would take place between these two economies.



- Commissioners recommend that Canada negotiate a legal arrangement with the United States which incorporates strong safeguards to limit spill-over from the arrangement and thus to protect substantive policies, such as those pertaining to culture and defence, which are functionally unrelated to trade in goods and services. Indeed, a policy that creates no linkage should be explicitly confirmed in order to avoid surprises if the Government of Canada, as we recommend, were to pursue a more aggressive policy of support for indigenous cultural expression as a concomitant of a bilateral trade initiative.
- Commissioners recommend that this legal arrangement attempt to regulate three general types of barriers that currently restrict trade between the two countries. We recommend that:
  - Tariffs be phased down to zero over a period of perhaps ten years. Effective rules of origin must be developed.
  - An approach should be developed to use measures of contingent protection as follows:
    - For measures governing “fair” trade (such as safeguard action) and “unfair” trading practices (such as anti-dumping and countervailing-duty proceedings), enforcement would be shifted from national administrative tribunals to a new Canada-U.S. intergovernmental body established under the arrangement; this body would be known as the “Canada-U.S. Trade Commission” (CUSTC).
  - Detailed codes of national conduct would be required to govern resort to other non-tariff measures such as discriminatory federal and state-government/procurement practices, product standards and federal customs, classification rules and administrative procedures. Again, these matters should be subject to review of the CUSTC.
- This Commission holds that a free-trade arrangement should incorporate explicit provisions which reflect the proportionately greater costs of adjustment that Canadians will face. The Canadian economy needs more time for adjustment than does the U.S. economy. We therefore recommend a two-track approach to phasing in the tariff cuts to allow U.S. rates of duty generally to be reduced either at a faster rate or earlier than Canadian tariffs. The Canadian government should quickly develop strategies for adjustment which are compatible with the framework of adjustment assistance proposed in Part V of this Report, that is, the new Transitional Adjustment Assistance Program. The emphasis of government programs should be on assisting workers to adjust to new employment opportunities. In addition, a reoriented industrial policy, as set out in Part III, will encourage the flexibility and growth orientation required by a freer-trade environment.
- This Commission recommends that the Government of Canada urge the Government of the United States to implement the

free-trade arrangement by amending U.S. federal and, if necessary, state legislation to conform to the arrangement, and that they do so under a "fast track" procedure which would require Congress to pass implementing legislation within 90 days of the President's formal declaration that he intends to sign an international agreement binding the United States. We also recommend, however, that a formal treaty eventually be struck once both governments have had sufficient experience with the arrangement.

- This Commission recommends that negotiations in Canada proceed on the basis of a broadly based, federal-provincial consensus, and that provinces be prepared to give legislative assent to the provisions of the arrangement, in keeping with the high degree of consultation that will be required to achieve federal-provincial consensus. We also recommend that in the longer term, Canadian governments establish a federal-provincial constitutional procedure: sections of the treaty that impose obligations on provinces would come into effect across Canada when two-thirds of provincial legislatures, representing at least half of Canada's population, passed resolutions in support of the treaty.
- This Commission recommends the formation of a three-tiered Canada-U.S. intergovernmental institution to provide basic executive and administrative decisions; technical staff services; adjudication of complaints and appeals under the agreement. We further recommend the following mechanisms:
  - A committee of national officials at the ministerial level to be responsible for the enforcement of the agreement's obligations
  - A supporting body of officials known as the "Canada-U.S. Trade Commission" (CUSTC) to manage non-tariff barriers, but subject to appellate review by the Ministerial Committee
  - A standing arbitral panel with binding powers as a board of last resort, to resolve disputes arising from conflicting interpretations of the agreement. Such a panel would consist of two Canadians, two Americans and one neutral member to be chosen by the members of the panel.
- International trade and industrial policy are inextricably linked. In Canada, there is the added dimension of cultural and social implications. To undertake successful negotiations on freer trade with the United States will require an extraordinary management effort by the Government of Canada. The Commissioners, while making no specific recommendation on how best to prepare the way for the negotiations, wish to express concern that the current federal departmental structure does not appear to provide the degree of integration required to carry out a major negotiation of this kind. It may be that an Office of the Special Trade Negotiator should be established, and that the incumbent should report directly to the Prime Minister.

## *Development Assistance*

■ The motives of altruism and long-term national interest coincide in this Commission's recommendations for Canadian objectives pertaining to Canada's relations with developing countries. In pursuing these objectives, Canadians should be aware that the primary responsibility for development rests with the nations in question, and that although greater international efforts are required, difficult intranational, social and institutional issues are often the fundamental impediments to progress, just as they are in all nations. Commissioners recommend:

- An improvement in both the quantity and the quality of Canada's aid performance. Canada should advance to the Lima target of 0.7 per cent of GNP, not by 1995, but by 1990, and aim to achieve 1 per cent of GNP by the year 2000. The Canadian government should reduce the fraction of our aid which is tied, and to facilitate this reduction, we should rely more on multilateral than on bilateral aid.
- That Canada work within global institutions to improve the receptivity of these bodies to proposals helpful to developing countries. Canada should, for instance, systematically seek ways to involve developing countries more fully in a future round of GATT negotiations.
- That the Canadian government be ready to consider proposals for mitigating some of the more harmful effects of the international debt crisis on developing countries. Canadians should resist pressures for economic protection that would apply to exports from these countries. A more constructive and conciliatory approach to developing countries and their problems will not only help these countries, but also yield longer-term dividends for all countries. □

## *Note*

1. Canada, Royal Commission on Canada's Economic Prospects, *Final Report* (Ottawa: Queen's Printer, 1957), p. 17.





## Growth and Employment

### Conclusions and Recommendations

#### General

Canada's growth and employment prospects depend heavily on developments in trade and in the use of our human and natural resources. Regional development policy and the institutional framework of our federal form of government also affect our growth and employment prospects. Part III of this Report addresses other components that affect these prospects: the role of capital, technology and management; the choice of industrial policy; the demand management or setting of monetary and fiscal policies; and the flexibility of wages and prices in responding to the vagaries of the business cycle. While the following recommendations are addressed separately, their strength depends significantly on their integration with the recommendations in the rest of this Report.

Governments must be prepared to vary their role in the allocation of human, capital and natural resources in response to changes in external and domestic pressures. In general, however, governments should endeavour to facilitate the operation of the market mechanisms of our economy, rather than to seek occasions for further intervention.

■ In the management of the economy, governments must acknowledge the considerable international and domestic constraints on policy. They cannot provide quick solutions to every economic difficulty. Rather, they should set the medium- and long-term framework within which solutions can be worked out.

Although economic growth is a key means of increasing the welfare of all members of society, Commissioners do not advocate the pursuit of maximum growth at all costs. The claims of growth must be balanced against those of equitable income distribution, employment security and environmental quality. □

## Recent Performance and Prospects

Canada's post-Second World War performance was strong until 1973; after that date, inflation began to climb rapidly, and productivity growth declined. Since the 1981-82 recession, unemployment has been our most serious policy concern.

This Commission has examined four independent projections of Canada's likely economic performance in the absence of major policy changes. These forecasts suggest that Canada's growth rate in real gross national product over the next two decades will closely parallel the U.S. rate. Annual real growth in Canada should average 3 per cent during the late 1980s, and decline to about 2.5 per cent during the 1990s, in keeping with a decline in the rate of labour-force growth. The growth prospects for natural resource-based production seem weak, especially in mining and forestry.

■ Most analysts predict that unemployment will remain at relatively high levels in Canada throughout the 1980s. Current high rates of unemployment are associated with insufficient total real demand relative to total supply. In addition to this critical problem, there are major structural problems which, unless addressed, will not allow unemployment to drop below 6.5 to 8 per cent over the long term. This level is unacceptable by this Commission's standards, and the problem of reducing the structural unemployment rate must be addressed. □

Employment growth and productivity growth are essentially independent. Growth in the labour force is the principal cause of employment growth. Productivity growth increases both the supply of output and real demand to roughly equivalent degrees. Thus, growth and employment goals are not in substantial conflict over the longer run. We can improve productivity without harming long-run employment growth; more generally, technological unemployment is unlikely to become a major problem. Rather, increased productivity and technological change are the key to longer-term growth in real income and economic welfare.

Some fields have experienced an increase in the rate of technological innovation over the past two decades, but the overall rate is difficult to estimate. The decline in productivity growth since 1973 might suggest a decline in the pace of technological innovation. However, the recent increase in the share of gross national expenditure spent on research and development (R&D) in the United States and Canada will raise the pace of technical change and contribute to a recovery in productivity growth.

## Industrial Policy

Canada's industrial policy has shifted since 1945, emphasizing, in turn, nationalistic goals or trade liberalization, development of the manufacturing sector or development based on natural-resource wealth.

Industrial policy in Canada incorporates a wide range of policy instruments, some of which have purposes related to trade or to general economic

policy. Neither the federal government nor the provinces have blueprints for industrial policy. This omission reflects a fundamental reliance on market forces and private-sector enterprise as the engine of growth.

Commissioners' review of foreign industrial policy indicates that policies that work in some countries may not work in others. Despite Japan's low expenditure on R&D, that country has been successful in the knowledge-intensive industries. France and Germany have very different industrial policies, despite being members of the European Community. France has a highly targeted interventionist approach, while Germany's approach is more market oriented. There would seem to be no particular mix of industrial policy instruments that ensures success.

Canadians differ on the proper role of government in promoting economic growth and employment. The polar extremes of a strictly hands-off approach and a highly interventionist, targeted, industrial policy appear to overlook the complexities of policy formation and practice.

■ Relative to current practice, Commissioners favour a more market-oriented industrial policy. More particularly, we favour letting the market work and placing less emphasis on government intervention to protect declining industries. We have reviewed the possibility of a more specifically targeted approach – the strategy of “picking winners” – but we believe it unlikely that such a highly interventionist approach would meet with greater success overall than would a more neutral policy.

For several reasons, some modes of intervention make sense; hence Commissioners do not favour a strictly hands-off approach. Furthermore, while there is little evidence in Canada or abroad that a targeted industrial policy is more effective than a market-oriented approach, other countries will continue to experiment. Canada should monitor these experiments carefully and consider strategic ways of strengthening its areas of comparative advantage. In our judgement, however, Canada has relied on intervention too often, too extensively and in too *ad hoc* a fashion.

Canada's industrial policy should emphasize broad-based support programs that work in tandem with basic market forces. To the extent that government involvement is required as, for example, in R&D support, benefit/cost criteria should guide it.

This Commission does not propose a blueprint for industrial development; indeed, to attempt a detailed formulation would be counter-productive. We believe, however, that consistent with our emphasis on market mechanisms, there should be a clearly stated framework for industrial policy. Such a framework would facilitate both private-sector decision making in Canada and the co-ordination of government policies and programs. This stated framework should express the strategic objective for industrial policy. Commissioners believe that the productivity of Canadian industry should predominate over other concerns, and that we should concentrate on improving our competitive position.



Commissioners believe that industrial policy should fortify incentives for excellence, for the efficient allocation of resources, and for adjustment to new economic realities. Such a policy would produce increases in real income, fuller employment and the means to address income distribution.

To improve the productivity of Canada's human, capital, and natural resources, and the competitive position of Canadian industry, industrial policy should include the following elements:

- A supportive macro-economic framework that while controlling inflation, promotes growth of output and employment at a reasonably even pace, in accordance with the economy's capacity
- A commitment to freer trade and the freer flow of investment. We favour both multilateral freer trade and bilateral free-trade negotiations with the United States.
- A commitment to strengthening Canada's labour, capital, technology and management resources.

### *Capital, Technology and Management*

Recommendations respecting education and training are addressed in Part V of this Report.

- With respect to capital, technology and management, this Commission makes the following recommendations.

#### *Capital Formation*

- International comparisons suggest that Canada has not suffered from any serious lack of investment over the last two decades. However, some recent economic analyses indicate that the tax treatment of savings and investment may result in a capital stock (that is, national wealth) that is too small.
- While this Commission has not reviewed the tax system in detail, it does appear to us that government should examine the effect of this system on savings and capital formation. This examination should consider the adequacy of the current allowances for inflation in the tax treatment of savings and investment. It should also consider the desirability of altering the current personal tax system by substituting an expenditure base for the income base.

#### *Domestic R&D*

The effectiveness of R&D expenditure is more important than setting a target level in relation to GNP.

- To increase the effectiveness of domestic R&D, governments should consider the following measures:
  - Ensure the availability of existing incentives to all business through some type of refundability of tax losses.
  - Broaden the definition of R&D while lowering the rate of tax subsidy, even though we recognize that such a broadening could give rise to administrative problems.
  - Ensure that adequate resources are devoted to obtaining information about foreign technological developments and to disseminating information on technological developments to domestic industry.
  - Encourage excellence by concentrating Canadian effort on projects, research and development of world-scale value through “networking” between experts within Canada, as well as internationally.
  - Reduce protection of domestic industry and encourage it to be more competitive internationally.

### *Technological Acquisition*

New technologies are increasingly shared on a global basis, and the originating country has little lead time over others to exploit its advantage. Canada draws extensively from the world pool of new technologies, in part through investment in Canada by multi-nationals. New manufacturing technologies spread more slowly in Canada than they do in other countries.

- A potential solution is to liberalize trade and to reduce the existing barriers to the flow of equity capital.
- Public policy in education and the gathering and dissemination of information could improve technological adaptation in Canada. Post-secondary institutes should place more emphasis on science, engineering and business courses. Universities should be more active in the commercialization of inventions. The National Research Council’s initiatives on information gathering and dissemination could be a model for other agencies. Technology brokers, contract-research organizations and think-tanks have assisted technology acquisition in other countries. Both the private and public sectors in Canada should consider more activity of this nature.

### *Management and Entrepreneurship*

- Increased international competition demands that Canada draw on world-class management. We should have greater exposure to competition, a reorientation of small-business/assistance programs, and strengthened business schools. Closer bonds between business and the arts community would improve product design.

- Entrepreneurship is another key component of national economic development. While small business is a vital source of entrepreneurship, other sources also require encouragement. Governments should consider changing regulations to stimulate equity investment by financial intermediaries in small and medium-sized firms, and change the tax system to make equity ownership more attractive.

### ***Framework Policies***

Another element that is needed to improve Canada's economic position is a commitment to framework policies that encourage the private sector to adapt to change and the efficient allocation of Canada's human, capital and natural resources. Framework policies include tax policy, competition policy, general regulatory policy, foreign investment and adjustment policy.

- Our recommendations in each of these areas are as follows.

#### ***Tax Policy***

- While Commissioners have not undertaken a comprehensive review of tax policy, they have investigated the issue in general terms and looked at some specific problems. Tax policy has a fundamental influence on economic and social choices.
- We recommend a thorough review of the influence of the tax system on decisions that distinguish work and leisure, and consumption, savings and investment. Policy makers must become more aware of the efficiency costs of the tax system. In addition, Canadian tax policy must recognize the fluidity of capital flows.
- There appears to be merit to building on recent changes that moved personal income tax in the direction of a personal consumption tax.
- Governments should review non-neutralities in the corporate tax structure and consider indexing of capital assets for inflation. Alternative accounting methods of defining the corporate tax base, such as the cash-flow approach and the refundability of negative taxes, are also worthy of review. Such provisions could replace fast write-offs of exploration and development expenses in the resource sectors, and accelerated capital-cost allowances in the manufacturing sector.

#### ***Competition Policy***

Canadian industry appears to have become more concentrated at the producer level over the past decade. However, trade liberalization and deregulation have reduced concentration at the seller level. Mergers and conglomerates can result in undue concentrations of economic power; they can also improve efficiency and competitiveness internationally.



- Canada's competition policy should better reflect both of these realities. Commissioners recommend that Parliament empower the Director of Investigation of the Combines Investigation Act to report on all developments that impede competition in Canada, including trade protection and regulatory provisions. We recommend further that governments exercise greater discretion respecting mergers and conglomerates, directing restraining provisions to those cases where a clear threat to competitive practices is evident. With increased trade liberalization, the primary area of concern could be the non-internationally trading sectors of the economy. Canadian firms should retain the right to co-operate with one another in export markets, provided that they do not reduce domestic competition, and clarification should be offered through advance rulings. All large corporations, public and private, Canadian owned and foreign owned, should be required to file annual reports with the government.

### *The Regulatory Framework*

Commissioners do not accept the simplistic notion that regulation should always be kept to a minimum. Some current problems, such as those associated with the environment, can probably be addressed only through an increase in regulatory activity. In many other areas, however, a reduction in regulation, and a concomitant increase in competition, would substantially increase economic efficiency. Even where regulation is necessary, it could in many cases be made simpler and more responsive to changing conditions.

- We recommend that government undertake to review and reform the regulatory framework as a whole. Regulatory agencies should be subject to closer Parliamentary scrutiny than they are at present, and their mandates should be more clearly and closely defined. Whenever possible, regulatory activity should be subject to a "sunset clause": that is, it should be limited in advance to a specific term.

### *Crown Corporations and Privatization*

- The sale of some Crown corporations to the private sector would be a logical adjunct of deregulation, since it would enhance competition. By the same token, the federal government and the provinces should arrest the tendency toward nationalization or mixed enterprises, particularly insofar as this tendency is associated with industry bail-outs. Both levels of government should reassess the functions of these Crown corporations and mixed enterprises. If the functions or objectives of a given Crown corporation could be met more effectively by other means, the enterprise in question should be either phased out or

sold to the private sector. If a Crown corporation is to be privatized, foreign buyers should not normally be excluded from bidding for the assets. Exceptions to this rule include cases where purchase by a foreign buyer would result in barriers to entry by other competitors, or where the industry in question should be reserved for Canadians.

### *Foreign Investment*

Over the past 15 years or so, Canadian ownership of our industries has increased substantially. It is now appropriate to re-examine mechanisms for monitoring foreign investment in Canada. Bill C-15 provides some useful guidelines, but further innovations are required to balance the need for international equity funds and the need to foster good corporate citizenship.

- The review of foreign investment proposals should be conducted by a quasi-judicial tribunal to ensure full public disclosure and political accountability. Fast-track procedures and practices for the handling of commercial confidences would need to be developed. Commissioners believe that new foreign investments need no longer be reviewed; the tribunal should review acquisitions only. The threshold for review should be raised from \$5 million in gross assets to at least \$50 million in order to focus resources on the larger and more critical take-overs. The review process should emphasize the competitive and technological conditions surrounding the proposed foreign take-over. The government should clarify the standards governing the post-entry behaviour of foreign investors by promulgating a general code of conduct applicable to all major firms, domestic and foreign, operating in Canada. To promote compliance with the code of conduct and to improve our understanding of the consequences of foreign control, the government should legislate an annual reporting requirement for all major firms or for corporate groups operating in Canada with assets in excess of \$50 million. Firms should be required to disclose specified types of information relevant to their observance of these guidelines. Canadian directors should be required to file an annual statement detailing their firm's efforts to achieve the objectives of enterprise performance set out in the proposed code of conduct.

### *Adjustment Policy*

- Whenever possible, adjustment assistance should be provided to workers rather than to firms. Commissioners recommend the institution both of tougher international agreements and of mandatory reference to a neutral agency, such as the Tariff Board, in order to make it more difficult for governments to

resort to protection of declining industries. By the same token, we also recommend that it be made more difficult for governments to resort to the use of firm-specific subsidies; this could be done by attaching conditions to the recipients, and by requiring the costing of off-budget subsidies. If firm-specific subsidies are given in declining sectors, the assistance should go to the most viable, and not the weakest, firms. Part V deals at length with our recommendations regarding labour adjustment policies. Declining single-industry communities require special labour-adjustment assistance.

If the economy is flexible and adaptable, adjustment will probably be much easier, and involve less unemployment. In addition, real income levels will be improved. Flexibility in prices and wages—or, more generally, the development of successful incentives—is the key to achieving a flexible and adaptable economic structure.

### *Infrastructure Support Services*

This Commission views policies regarding transportation, communications and infrastructure generally as vital components of an industrial policy designed to enhance Canada's productivity growth and overall competitiveness. Commissioners note with concern the shrinking share of government expenditure devoted to such infrastructure.

■ We urge both the public and the private sector to view investment in the transportation and communications field as a priority. While Commissioners recognize that a strong public role in this field is both inevitable and desirable, we conclude that deregulation and a more market-oriented approach is desirable.

The private sector should be encouraged, through the tax system and government programs, to adopt the technological and other measures necessary to establish a first-rate transportation and communications network across the country. Canada needs better mechanisms for accommodating divergent regional-investment policies and regulatory policies that have national implications.

### *Government Intervention*

■ Government should provide itself with a clear set of guidelines to determine the nature of its intervention at the sectoral or firm level. Given the difficulty of measuring the costs and benefits of intervention, Commissioners recommend that selective intervention be used sparingly. Few cases warrant special attention, and the burden of proof should be on those that propose intervention at the sectoral or firm level. A strict limit on the funds budgeted for intervention is essential. Intervention should be undertaken only where there is clear evidence of market failure, or in industries that exhibit substantial economies of scale, or where high risk and



large size make it difficult for market forces to operate adequately. Where these considerations prevail, the following guides should apply:

- The benefits of intervention must demonstrably exceed its costs.
- If efficiency is not the overriding objective, the objective should be achieved at the least cost.
- There must be sufficient consultation with business and labour to ensure that the chosen means of intervention are appropriate.
- International obligations must not be jeopardized.

### ***The Economic Union***

- A commitment to a strengthened economic union is a vital element of a healthy Canadian economy. Barriers to the free flow of labour, capital goods and services should be minimized, and integration of policies should be harmonized. □

### **Stabilization and High Employment**

For structural and institutional reasons, the rate of unemployment consistent with stable inflation in Canada is in the range of 6.5 to 8 per cent. Expansionary monetary and fiscal policies cannot sustain levels of unemployment below this range over the longer term. A permanent reduction in such "structural" unemployment would require structural changes, by which we mean such policies as freer trade, labour-market adjustments, and new mechanisms for labour-management relations.

The current rate of unemployment (about 11 per cent) is well above the rate consistent with stable inflation. This unacceptably high rate is the result of an insufficiency of total demand relative to total supply. Impediments to reducing unemployment by even 3 to 4.5 percentage points are the large federal government deficit, the high real current rates of interest and the extraordinarily complex role played by expectations.

Limitations in forecasting and lags in the effect of policy action argue against moderating short-run fluctuations in economic activity through discretionary action. The federal government should use stabilization policy to achieve non-inflationary growth in demand in the medium term, while preserving automatic fiscal stabilizers. However, economists disagree about the strength of the self-righting forces in the economy, that is, the forces that will drive unemployment toward its "natural" or full-employment level. Commissioners believe that discretionary stimulus or restraint can help in periods of major extended divergence in demand from a non-inflationary growth path.

Global interdependence, especially in capital markets, limits the degree to which policy can insulate an open economy such as Canada's from foreign developments. Given our flexible exchange rate, we can choose our inflation rate in the long run, and to that extent, we can have a made-in-Canada macro-economic policy. But the influence that we can hope to have on real

demand in our own economy is likely to be short term in nature and rather limited in scope.

■ To preserve independence in domestic policy for Canadian authorities, this Commission recommends a flexible exchange rate. We do not recommend exchange controls or an interest equalization tax to control capital outflows.

Commissioners share the widespread concern about the size of the federal government's deficit. We recognize that if the government does not reduce the current structural deficit, it will have to increase taxes just to pay interest costs and will find its flexibility seriously constrained.

■ Commissioners recommend a strategy of gradual deficit reduction, given the current outlook of slow recovery. To stabilize or decrease the debt/GNP ratio, the government will need to reduce the deficit by about 1.5 per cent of GNP, which would be equivalent to \$10 billion by 1990–91. The practice of laying out an explicit medium-term fiscal plan, introduced in the December 1979 budget and continued since, is useful. We favour using a combination of tax increases and rather broad expenditure reductions to reduce the deficit. The precise means of achieving this reduction are a matter for shorter-term government policy, but Commissioners offer one possible means for consideration. This would be to set the indexing factor for the personal income tax and for some transfer-payment programs at  $x$  percentage points below the rate of inflation and to hold the price factor for all other expenditure programs—except foreign aid and national defence—at  $x$  percentage points below the rate of inflation. Setting these annual indexing factors three percentage points below inflation for a period of three years would generate a reduction in the deficit of about 1.5 per cent of GNP, thereby reducing the deficit and by that amount the deficit/GNP ratio from the 6 to 7 per cent range projected for the late 1980s.

■ Under present circumstances of high unemployment, a shift to a less expansionary fiscal stance, so as to reduce the deficit, should be more than matched by a temporary shift to a less restrictive monetary stance. A moderate increase in the projected growth of demand, which might significantly reduce unemployment and strengthen investment, should still be consistent with a further reduction in inflation.

While Commissioners recognize that adherence to a steady monetary-growth guideline can help to ensure that a stable, non-inflationary environment will be maintained, shifts in the demand for money during the past few years have made this approach difficult to apply. Furthermore, such an approach might lessen governments' ability to adjust the mix of monetary and fiscal policy in order to balance consumption and investment, and to balance the sectors of the economy that are strongly influenced by the exchange rate and the sectors that are not.

■ As a compromise solution, the government could relate demand-management/policy targets to the growth of nominal GNP. This policy would require a willingness to adjust both monetary-growth targets to nominal GNP, in the event of significant shifts in relation of the money supply, and monetary and/or fiscal policy in the event of severe prolonged departures of nominal GNP from a steady growth path. Commissioners recommend that the joint setting of monetary and fiscal policy be consistent with non-inflationary growth of nominal demand.

Commissioners have also considered potential adjustments to lessen the distortions and damage that any continuing inflation imposes. We share what seems to be a general preference that has emerged over the last few years, to emphasize low and stable inflation rather than structural adjustments that would make it easier to live with inflation.

■ Despite the preceding conclusion, Commissioners believe that serious consideration should be given to indexation of financial assets, accounting systems and tax systems. To adjust the tax system to take inflation into account would improve its neutrality in general and lessen the incentive to rely on debt financing in particular.

In Commissioners' judgement, permanent wage and price controls or even a permanent tax-based incomes policy would probably not prove acceptable to Canadians and would not be consistent with our general approach of promoting a flexible, adaptable and growth-oriented economy.

■ We do, however, recommend the temporary use of controls or incentive-based incomes policies if the country needs to reduce inflation again. Furthermore, the use of temporary controls could bring about a more rapid reduction of unemployment than presently seems to be in prospect. Such temporary controls should be the subject of negotiation with business and labour groups.

Commissioners believe that a formal voluntary incomes policy, which would involve commitments to respect common guidelines for wage increases and for price or profit patterns, will be difficult to achieve, given the structure of labour and product markets in Canada.

■ We recommend, however, continued informal and formal consultation on a broad range of economic issues, and increased openness about the bases of economic policy formation. Such an approach might assist public understanding and encourage realistic attitudes about wages and prices. It might also contribute to lower unemployment.

■ Commissioners believe that gain sharing—that is, making compensation more dependent on the current performance of the firm or industry—offers the most promising approach to achieving greater cyclical stability in employment and productivity growth.



Gain-sharing would be viable only in an environment of greater trust and openness, and thus we tie our recommendation for its use to our position on consultation noted above.

Commissioners recommend to labour, business and governments that they consider some form of incomes policy, coupled with supportive monetary and fiscal action, to increase employment. Without such a comprehensive approach, reduction of unemployment to the level of 6.5 to 8 per cent may be a lengthy and difficult process. Furthermore, without such a demonstration of political will by all major groups in society, and by individuals as well, the prospects for undertaking major structural changes to reduce unemployment below 5 per cent would appear to be less bright. This basic challenge of political will is the central determinant of improved economic performance. □





## Natural Resources and Environment

### Conclusions and Recommendations

The natural resource sector's contribution to Canada's economic well-being, cultural life, and political traditions and institutions has been immense. Because natural resources have been so important to Canada's past, however, we tend to exaggerate their importance to our future. In fact, the resource sector has not grown at a rate commensurate with the economic expectations we have developed in the years since the Second World War; nor does its projected growth match our hopes for the decades to come.

It has become clear in recent years—if it was not clear before—that Canada's natural resource endowment is not unlimited. We are losing our agricultural land to suburbs and shopping centres. Our stands of readily accessible, high-quality timber are largely gone, and our richest and most accessible deposits of ore and fossil fuels are already in production. Our mismanagement of the fishery has meant that we have not been able to reap the potential benefits of the designation of the 200-mile offshore zone in 1977. These problems of supply are compounded by prospects of lower demand in world markets for forest products and most non-fuel minerals. Moreover, our forestry and minerals industries can expect increasingly stiff competition from countries with lower production costs, and this competition will be made all the more difficult by the rapid advances in products and process technology.

These problems do not mean that our basic resource industries will disappear. Relative to other nations, Canada remains well endowed with natural resources. The outlook for oil and gas, a few minerals, hydro-electricity, and Western grains is favourable. The dollar value of production in the resource sector will continue to grow. Nevertheless, the share of output in this sector will decline, relative to the share of output in other sectors of our economy, although the decline will not be as rapid as it was in the first two post-war decades. Total exports of resource products will continue to



expand, and the terms of trade are unlikely to turn against us in any dramatic fashion. Increasingly, however, we shall have to supplement resource exports with exports of more highly processed products if we are to maintain our capacity to buy the goods and services of other nations. The pattern of relative decline will mean that we can generally expect no net gain in resource-sector employment in the future: a growing proportion of Canadians will find their jobs in factories or offices. Indeed, the decline in the resource sector's share of total employment is the clearest indication that the sector will not be the engine of economic growth that it was in the past.

The prospect of a decline in the relative importance of the resource sector in relation to our national economy is no reason to neglect that sector's problems or its claims. Resource industries are still essential to the economic life of many regions of Canada. Moreover, we have an obligation to pass on to future generations a variety of viable resource industries founded on a natural endowment that is as secure and as healthy as we can make it. Canada's success in resource production owes as much to human ingenuity as it does to the resource endowment itself, and many of the problems of the sector can be overcome, or at least diminished, by appropriate applications of that ingenuity. We must apply new methods, new processes, new public policies, and new thinking to the problems of maintaining both the competitiveness of the resource industries and the integrity of the natural environment that is their base.

■ Chapter 12 set out this Commission's detailed recommendations for the individual resource sectors. The thrust of our recommendations for dealing with the challenges ahead in each resource sector is as follows:

- For agriculture, we recommend a range of measures, from expansion of foreign markets, to increased R&D, to reform of national supply-management marketing boards, planned to enhance the efficiency of a sector which has great potential over the long term.
- For forestry, we recognize a legacy of mismanagement and recommend significant changes in the way the forest sector operates, as well as a major infusion of public and private investment.
- For the fishery, what has been lacking is political will, and we recommend measures to build on the fundamental reforms of the Kirby and Pearce Reports to shift the balance in public policy toward building a viable economic base in Canada's coastal regions.
- For minerals, we recognize generally the more limited possibilities. We recommend a more realistic approach to adjustment and a movement towards a profit-based tax system.
- For energy, we recommend a new framework based on the principles of efficiency, fairness and predictability, and a complete overhaul of the fiscal regime for oil and gas.

- For the environment, we recognize the growing challenge and the need to integrate decisions related to environment and economic development. We recommend a series of measures to correct the incentives which are aimed at protecting the environment; and, in general, we propose strengthening the regulatory framework.

Commissioners believe that it is important, however difficult, to assess the problems and opportunities of the resource sector in a more comprehensive way, just as, for example, governments focus from time to time on the general issues of the manufacturing sector.

- The following general principles briefly relate Commissioners' detailed recommendations to the management of the resource sector as a whole:

- We conclude that in Canada, with all its rich resource heritage, there is no conflict, in the long term, between the stewardship, preservation and enhancement of the natural resource base and growth prospects for the traditional resource industries. Consequently, we perceive a vital need to integrate environmental decisions and decisions related to economic development, and our proposals for action in each of the particular resource sectors reflect this perception. Thus we recommend a study of the loss of prime farm land to non-agricultural uses and emphasize our concern about the problem of soil deterioration and soil salinity. We support the infusion of large sums of both public and private monies into reforestation and silviculture, and we recommend that the duration of leasing agreements between governments and forest companies be increased in order to provide an incentive for long-term management of forest tracts. Finally, in recognition of the fact that natural resources belong to the Canadian people and must be passed on to future generations, we believe that private developers should continue to pay governments a royalty based on production for oil and gas and minerals.

- In many other places in this Report, we call for less government intervention; in the area of environmental regulation, however, we are obliged to call for more. Over the long term, the task of environmental regulation promises to be immense. We shall have to deal with growth in the number and size of projects that may adversely affect the environment, with an increasing number of pollutants and hazards, with the irreversible, and sometimes unquantifiable, effects of a growing range of industrial substances and processes, and with the emerging international aspects of our environmental responsibility. Consequently, we recommend that governments increase their spending to provide the analytical resources needed to support

the long-term regulatory task. We further recommend that federal environmental processes be put on a statutory basis, and that federal and provincial review processes be brought into greater harmony.

- Changes in the pattern of world trade have offered new opportunities and new challenges to the Canadian resource sector. Our ability to realize the opportunities—and to survive the challenges—will depend on our ability to design resource strategies suited to a global context. This consideration has led us to recommend that the grains sector and the fishery sector pursue marketing and production strategies that will give them access to the new and rapidly growing markets in the developing countries. Whether it is a question of expanding our markets or of beating the competition, we believe that it is within Canada's interest to work for free trade, both at the multilateral level and at the bilateral level, with the largest purchaser of Canadian resource products, the United States. The adjustment problems that would derive from freer trade and the bargaining tactics that would be necessary to bring it about would vary with each resource.
- We believe that in many instances a stricter adherence to market principles and an increase in the incentives to the private sector would brighten the prospects of Canada's resource industries. Thus we consider that a commitment to market pricing for both oil and gas would provide the incentive essential to increased exploration and development. For oil and gas and minerals, we believe that the establishment of a taxation scheme based largely on profits rather than on output volumes would both promote the development of marginal supplies and allow the industry to make more rational resource-allocation decisions. Although we do not advocate transferring ownership of forest tracts to private industry, we do suggest that such modifications to the land-tenure system as increasing the duration of leasing agreements would promote more responsible forest management. Finally, we recommend a phasing-out of national agricultural-supply/management marketing boards and their replacement by an income-stabilization scheme designed to moderate large fluctuations in farmers' incomes.
- We believe that there is room for significant improvement in the efficiency of both the regulatory framework and the handling, licensing and transportation infrastructure that supports the resource sector. We underline the important effect of the Crow Rate on the transportation of all bulk commodities, especially Western grains. We support further movement in the direction of market-rate principles when the Western Grains Transportation Act comes up for review, but we leave it to the Committee of Inquiry on Crow Benefit Payment (Hall Committee) to advise on specific adjustments to the payment of the Crow



Benefit. In the minerals area, we recognize that the regulatory structure is cumbersome and slow, and we recommend that governments undertake a systematic review of their regulatory processes with a view to streamlining them. We would also draw attention to the fact that fisheries management has all too often led to overcapacity, unnecessary tensions, uneven product quality and, thus, lost opportunity. For oil and gas, we recommend a simpler taxation regime and a simpler pricing formula, both of which would decrease medium- and long-term uncertainty.

- The resource sector has undergone far-reaching adjustments since the Second World War. Further adjustment will be both essential and unavoidable, although perhaps less dramatic than it has been in the past. We believe that if a given operation has failed to realize a profit over a sustained period, adjustment is inevitable and should be allowed to take its course; governments should not intervene to support uneconomic activity. Mines that can no longer produce an ore competitively should be phased out, and we believe that in general, the same principle holds for the fishery. As we pointed out above, however, government action is necessary in some areas to guard against deterioration in the quality of our renewable resource base. In particular, we recommend a substantial increase in both public and private expenditures for the renewal of the Canadian forest.

There must be and can be a balance in the adjustment process between efficiency and fairness to people whose livelihoods or communities have long depended on traditional resource industries. In the case of the family farm, we recognize the special problems created by farmers' limited access to equity capital, by the volatility of farm prices, and by the principle that the land is to be passed to future generations. We therefore support the retention of special credit schemes for agriculture and, as mentioned above, we urge consideration of an income-stabilization scheme to replace national supply-management boards. By the same token, we support replacement of Unemployment Insurance for fishermen by a new production-bonus and income-stabilization program, a scheme that would promote more efficient behaviour without reducing total benefits. Fishermen would also be eligible for income supplementation under the Universal Income Security Program (UISP) proposed in our recommendations on social security. In the minerals sector, we recommend the provision of adjustment assistance for communities and individuals affected by mine closures.

- Research has a large pay-off, but often the benefits seem too distant to the producer of the resource to justify the expenditure. We recognize that there must be renewed Canadian effort in fundamental research, especially in the traditional resource

industries, if Canada is to match progress in competitor countries. Research into soil deterioration and new crop varieties warrants long-term funding by government. So does research related to aquaculture and to maintenance and improvement of the forest base. We have also called for an increase in expenditure on training in forestry. Finally, we support a stepped-up research effort in the field of environmental management, where we believe that the institutional capacity to provide scientific advice on a systematic basis is essential.

- In view of the importance of resources to Canada's future economic prospects and of the need to take a more integrated view of the problems and opportunities in the resource area as a whole, we recommend the establishment of a Council of Resources Ministers to provide leadership for increased federal-provincial co-operation. We recognize that various ministerial groups (for example, on agriculture and mines) now exist, but we believe that it is important for a co-ordinated strategy across the range of resources to be developed, based on the principles we have outlined above. We also recommend the development within the federal government of a greater capacity to analyse the contributions and problems of the resource sector as a whole. □



## Human Resources and Social Support

### Conclusions and Recommendations

This Commission wishes to make a number of general observations concerning some of the issues we have reviewed in this part of our Report. Several of the major recommendations proffered in this section are best considered as a package. Thus the reforms Commissioners propose for Unemployment Insurance (UI), the new Universal Income Security Program (UISP) and the new Transitional Adjustment Assistance Program (TAAP) would have maximum efficacy if they were implemented together. The savings generated by the UI changes would finance the TAAP, and the UISP would provide financial assistance if some incomes were lowered by the adjustments. The TAAP would support the effect of changes in the UI system that would promote economic adjustment, while the UISP and some elements of TAAP would cushion any resulting difficulties experienced by individual Canadians.

Since the overall level of social policy expenditures in Canada is low by OECD standards, there is no strong general case for attacking the deficit by reducing social expenditures. However, reallocation and restructuring could greatly improve the system and would be valuable in providing help to those who most need it, while containing overall costs.

Looking forward, Commissioners can see no trends that will inevitably undermine the fundamental viability of social programs. Such factors as the aging of the Canadian population or the demands imposed by technological and economic change require careful planning, but none is likely to prove so large as to make our programs unsustainable, particularly if the reforms suggested in this part of our report are carried out.

We Commissioners are of the opinion that tax and transfer systems cannot be given valid consideration in isolation from each other. Thus, major reform of our income-security programs also requires reform of some aspects of personal taxation.

## Labour Markets and Unemployment Insurance

After considering Canadian labour markets, Commissioners are of the view that Canada's most important goals are to create more jobs and to improve the situation of individual Canadians by eliminating any inappropriate incentives in current programs. We undertook our analysis on the assumption that current trends in participation rates will continue, bringing a steadily increasing proportion of women into the labour force. While these trends are basically manageable, particularly given our assumption, detailed in Part III, that labour supply itself creates demand for labour, they do portend continuing high levels of unemployment—and continuing preoccupation of policy makers with that problem—for the next five to eight years, and they do add significantly to the training requirements Canadians must face.

We note in our analysis of labour markets that the highest proportion of current unemployment is either created by deficiency of aggregate demand or by structural factors such as mismatches between available job requirements and skills. A significant amount of unemployment is also created by "frictional" effects, that is the inevitable lags and delays as workers move from one job to another. We have dealt in Part III with aggregate demand deficiency. Here we recommend several measures to facilitate adjustment and training, thus reducing structural unemployment. We also recommend changes in unemployment-insurance and income-security programs which will lower frictional unemployment. Without undertaking changes such as those we are recommending, it will be almost impossible, even in the long run, to reduce unemployment below 6.5 to 8 per cent of the work-force, the current non-accelerating inflation rate of unemployment (NAIRU). Since we consider even those levels to be unacceptably high, we lay great emphasis on these types of reform.

Some increase in unemployment is also engendered by our existing UI programs. First, by making unemployment relatively "cheaper" for individuals, it has, in some cases, a negative effect on job search. Secondly, by providing, through its benefit structure, that individuals in some areas may qualify for 40 weeks of benefits by 12 weeks of work, it encourages regular cyclical unemployment; a feature taken advantage of by both employers and employees. Again, by providing extended benefits in some areas but not others, it discourages labour-force adjustment, while providing no extended benefits to large numbers of unemployed Canadians. Moreover, because its premium structure is unrelated to the risk of unemployment, it penalizes steady employers and employees and shifts benefits towards firms and employees with unstable employment patterns.

- With respect to Unemployment Insurance, Commissioners recommend that the federal government consider a package of changes such as the following:
  - Experience rating which establishes premium rates that are proportional to the risk of unemployment. These rates should generally be calculated on a firm-by-firm basis.
  - A reduction of the benefit rate to 50 per cent of insurable earnings



- An increase of the entrance requirement to 15-20 weeks of insured work over the preceding year
- Tightening of the link between the maximum benefit period and the minimum employment period; for example, establishing a ratio of two or three weeks of work as qualification for one week of benefits
- Elimination of the extended benefit period based on regional unemployment rates.

These changes would reduce UI benefit costs by at least one-sixth in respect of the reduction in benefit rates and approximately one-sixth in respect of the elimination of regional extended benefits. The cost reductions that could be achieved by the other changes are too sensitive to behavioural change even to be estimated by methods available to this Commission. However, total savings of at least \$4 billion at April 1985 rates of unemployment are probable.

- Commissioners therefore recommend that:
  - The savings in respect of the first three UI reforms be passed along as reductions in overall premium levels. (The regional extended benefits are financed from consolidated revenues.)
  - Personal and corporate taxes be raised by an amount equivalent to premium reductions to create a Transitional Adjustment Assistance Fund. The government savings from termination of extended benefits should be added to the fund.

■ This Commission recommends that the Transitional Adjustment Assistance Fund be used to finance a Transitional Adjustment Assistance Program. This program would provide adjustment assistance for Canadians who have exhausted their UI benefits, or whose lay-offs appear permanent, provided that they were willing to move or to undertake retraining to improve their employment prospects. The program would provide greatly expanded support for:

- Portable wage-subsidy programs
- Mobility grants
- Training programs
- Early retirement.

In addition, the TAAP could be used to provide compensation for losses in assets, such as housing, which occur as a result of the decline of communities. It should also be possible for TAAP funds to be used on a pooled basis to assist workers to purchase equity in plants which would otherwise shut down or in other forms of local economic development projects. In general, the extent of entitlement of workers to TAAP funds should be proportional to their length of attachment to the labour force, since older workers will typically experience greater transitional difficulties than younger workers.

■ Commissioners recommend that existing policies promoting equal pay for work of equal value should be maintained. However,

these may involve some negative consequences. If they are used apart from affirmative action programs, for instance, they may actually result in reductions of employment opportunities for disadvantaged groups. Moreover, they can serve to move Canadians too far away from a market-determined to an administered wage system. Commissioners therefore recommend that legislation emphasize creation of equal employment opportunities through affirmative action, rather than the principle of equal value. Commissioners generally approve the approach put forward by Judge Rosalie Abella. This would involve:

- Legislated requirements for affirmative action by all employers covered by the Canada Labour Code
- Encouragement of all provincial jurisdictions to follow suit
- Contract compliance action by the federal government and Crown corporations.

We are not convinced, however, that sufficient attention has been paid to the costs of equal employment-opportunities programs or, particularly, to the issues of equity among the various disadvantaged groups in Canadian society.

- We therefore recommend that the program be phased in following:
  - A three year experimental program of affirmative action in Crown corporations
  - Extensive consultations with the private sector to ensure effective but least expensive implementation to begin in three years' time.

This Commission believes that the programs are more likely to be effective if they are supported by legislation and backed by an adequate enforcement agency.

- We therefore recommend:
  - Legislated equal employment-opportunities provisions, rather than guidelines
  - Establishment of fully adequate levels of funding for the federal Human Rights Commission and equivalent provincial institutions.

■ Work schedules are necessarily established on the basis of understandings between employer and employees that will express a balance between the requirements of the work process and the desires of the employee. This Commission has found, however, that some factors exist which may interfere artificially with the achievement of this understanding. Any such factors should be eliminated in order to achieve fuller flexibility of labour-market arrangements, thus enhancing both employee satisfaction and productivity.

- Commissioners therefore recommend such changes as:
  - Basing Unemployment Insurance, Worker's Compensation and CPP premiums on hourly earnings, with a ceiling on contributions that applies to hourly rates rather than to weekly or annual compensation
  - Eliminating the bias against some categories of reduced hours in creating eligibility for paid holidays or termination notice
  - Encouragement of pro-rating of fringe benefits. □

## Immigration

In the past decade, Canadian immigration policy has become more restrictive than our historical norm, both with respect to numbers of immigrants and with respect to the criteria for admission. We Commissioners do not believe that this narrowing is necessary or appropriate, given the long-term projections for Canada's population growth. We are concerned, however, about the overall implications of a more open immigration policy.

■ We therefore recommend:

- A major examination of Canadian demographic trends and their implications for our government's future immigration policies
- That the same study examine, by means of open debate and other methods, the cultural, linguistic and racial implications of other forms of immigration policy
- Establishment of a long-term plan for immigration that, depending on the results of the study described above, will move to higher numbers of immigrants over a number of years. This new plan should place less emphasis on narrow occupational requirements and more emphasis on broadly skilled and generally capable immigrants. □

## Labour/Management Relations

■ This Commission notes the very great importance of the labour movement in Canada and throughout the developed world in improving the pay and working conditions of workers. To this end, we wish to recommend generally that all Canadian governments provide a supportive legislative environment for the labour movement and for collective bargaining.

The adversarial system of union-management relations needs to be re-examined. Management must respond to employee concerns about job security and job satisfaction, and to the often-untapped capability of all employees to contribute to improved productivity and product quality. Unions must find new ways to facilitate and to participate in this process; they should have and take the opportunity to do so, not by relinquishing their representation of

employee interests, but by adding to it a responsibility for helping to achieve the levels of competitiveness essential to the survival of the enterprise.

Since reductions in strikes and lock-outs could be achieved by the following measures, Commissioners recommend that:

- Labour-relations boards be permitted to create multi-employer and multi-union bargaining units when this is likely to facilitate the bargaining process. Such units should not be imposed but, rather, could be permitted on the application of one or both sides.
- More information be shared by the parties to industrial disputes.

Commissioners are not persuaded that shorter contracts or forced centralization of bargaining structures are likely to improve labour-management relations significantly. Changes in these areas should therefore proceed on a voluntary basis. The right to strike or lock out must be rationally limited by the need to maintain the health and safety of the public.

Employer-employee relations in Canada seem likely to be most responsive to improvement at the level of individual firms, plants and union locals. Overall solutions proposed at the provincial or national level seem unlikely to be as effective as local solutions.

- Commissioners therefore recommend that governments support, on a local and voluntary basis, such features as:
  - Preventive mediation programs
  - Quality-of-working-life programs
  - Gains-sharing/compensation arrangements.

■ Occupational Health and Safety is an area of important and growing concern. Since great improvements can still be made, this Commission recommends:

- Greater emphasis on these issues at higher levels of corporate management. Management failure in this area is bound to result in higher levels of government intervention.
- More complete experience rating of worker's compensation premiums in order to provide direct financial incentives for firms to minimize health and safety problems, in order to ensure that the full social costs of hazardous work environments are reflected in prices.
- Continued and increased reliance on the internal responsibility system rather than increased government intervention. This requires:
  - Mandatory, joint health-and-safety/labour-management committees in all eleven jurisdictions, such as currently exist in nine
  - Vesting real responsibility in those committees rather than leaving them with only an advisory role



- Continual revision of standards by governments as new information about hazards becomes available. This is most important in dealing with occupational health problems. At a national level, these standards could most appropriately be developed by the Canada Centre for Occupational Health and Safety. The appropriate jurisdictions would then apply the standards.

Commissioners are particularly concerned with occupational health issues. Because occupational diseases typically have long incubation periods, it is often difficult to evaluate the effects of industrial processes on workers. That same factor makes it difficult to establish a direct link between occupational factors and specific diseases, and therefore current worker's compensation programs are not well adapted to handling occupational disease.

- In addition to our recommendation of continual development of standards and monitoring of processes, Commissioners also urge that:
  - The federal and provincial governments consider the immediate implementation of a comprehensive social insurance disability plan to deal with the longer-term effects of occupational health problems, as well as with other forms of disability in the working-age population. This plan could be implemented either by expanding worker's compensation into a comprehensive disability scheme or by extending the present disability provisions of the Canada and Quebec Pension Plans. A federal-provincial working party is currently considering this measure, but progress in developing this idea has been slow. □

## Education and Training

In Canada education and training programs discharge multiple functions. They constitute an important way in which young Canadians learn to live together in our community, and they are the most important means by which labour-force skills and knowledge are adjusted to labour-market demands. They also provide a major means of upward mobility. Our post-secondary educational institutions are also the major source of basic research and of much applied research, and they are important repositories of our culture.

Commissioners anticipate no diminution in the general importance of post-secondary education and training. Indeed, PSE is likely to increase in importance as the demand grows for high levels of knowledge and research. Training programs, particularly those relating to industrial training, are likely to become more important as Canadians adjust to the shifting realities of the labour market. The Transitional Adjustment Assistance Program, by providing greatly increased support for training, may be a particularly important factor in this adjustment.

Commissioners are concerned about several features of our educational and training system. In particular we are convinced that:

- Higher levels of excellence are desirable and achievable.
- More flexibility is desirable.
- Use of the PSE system by low-income Canadians is insufficient.
- The current federal-provincial transfer arrangements are inappropriate.
- The current balance between industrial and institutional training is still tilted too far towards the latter.
- There is inadequate provision for retraining and re-education in adult years.

With respect to post-secondary education, Commissioners believe that it is desirable to consider substantial changes in financing mechanisms in order to create a more competitive, dynamic and diversified system. The current EPF transfer arrangements are quite inappropriate for achieving those objectives. They should be changed to encourage reform of the system, but in a way that will minimize direct federal intervention in this area of provincial jurisdiction, while still allowing for the achievement of national objectives.

There has been very considerable informal discussion of the intergovernmental transfer arrangements for post-secondary education over the last five years, but there have been no formal federal-provincial negotiations. Commissioners believe that it is important for federal and provincial governments to enter immediately into serious discussion of other methods of funding than the current mechanism both because the present arrangements are less than satisfactory, and because the uncertainty about possible future arrangements may be impeding necessary reforms to the sector. Several broad options are available. Our federal government could:

- Withdraw completely from this sector and cede enough tax points to the provinces to cover its current contributions
- Return to the pre-EPF funding formula
- Provide an amount equal to provincial "own source" funding, exclusive of the tax points transferred under EPF
- Freeze its basic contributions at current or slightly lower-than-current levels while matching on a 50/50 basis incremental provincial spending on education. Alternatively, incremental funding could be earmarked to support high-level university-based research.
- Undertake a form of direct-to-student financing, allowing for variable PSE fee schedules.

This Commission does not recommend federal withdrawal from PSE involvement. Many of the benefits of post-secondary education are national in scope, and provincial governments might tend to undersupply this sector unless there were some federal presence, particularly if they believe that graduates are likely to leave the province. Many representations and briefs emphasized the importance of involvement of the Government of Canada in this field.

Among the cost-sharing options are:

- A return to pre-EPF arrangements. This would be a step back to a basically unsatisfactory system.
- Provision by the federal government of amounts equal to provincial “own source” funding. This move would constitute a massive cut-back by the federal government, part of which would probably be passed on by provincial governments to already hard-pressed institutions.
- Freezing of basic federal contributions with cost-matching of increments. This stance would exert relatively little “leverage” on provincial government expenditures in this sector and would mean starting from a basically unsatisfactory base point. However it is probably the most desirable of the cost-sharing options, particularly if some of the incremental funds are used to support research.

With the possible exception of the final choice, none of the cost-sharing options seems likely to be satisfactory. None is likely to improve the incentives for institutions to achieve the flexibility and excellence which Commissioners think desirable. We believe that the complex institutional arrangements for PSE have created very considerable inertia in the system, to the detriment of the student and society as a whole. We therefore believe that the direct-to-student/funding option, although it is the most radical and thus difficult for PSE institutions and governments to accept, may be a preferable approach. In order to institute that approach, the following changes would be required:

- The federal government should terminate the PSE cash portion of its EPF grants to the provinces, ceding the EPF tax points plus further equalized tax points in an amount equivalent to the Quebec abatement. All of the cash portion of EPF, including transitional adjustment payments, should be replaced with an education-expense tax credit or grant, to be increased annually at a rate equal to nominal GNP increase.
- Provincial governments should be encouraged to deregulate the fee structure of post-secondary institutions.
- Provincial transfers to institutions might appropriately be based on an equal per-student figure, without differentiation for particular programs, and be related directly to enrolment.
- Students should be responsible for a portion of education costs. Beyond that point, the federal credit should vary with the amount of expenses and tuition fees, up to a limit. The amount of the grant should vary only with fees and expenses directly related to education, and no attempt should be made to direct students into “demand” programs by means of a variable grant structure.
- A portion of the current EPF transfer (and some additional funding) should be reallocated to granting councils, which should begin to cover overhead costs of funded research.

A variant of this approach would provide much higher grants to graduate students than to undergraduates. This approach would greatly increase the “value” of graduate education for institutions and thus encourage specialization and excellence.



■ Commissioners strongly recommend that federal-provincial discussions aimed at rectifying an unsatisfactory situation should begin immediately, that they should consider a range of options such as we have suggested here, and that they should proceed with all urgency toward a conclusion. We believe that close further attention is merited for the options which:

- Replace intergovernmental transfers with direct-to-student transfers. Careful consideration should be given to the variant which makes much larger transfers to graduate students.
- Freeze current federal cash contributions. The federal government would match provincial expenditure increases on a 50/50 basis.
- Freeze current federal cash contributions while redirecting considerable amounts (perhaps one-half) of what would have been the incremental amounts into funding of university-based research. The rest of the funds should be used to match, on a 25/75 federal-provincial basis, larger provincial government contributions to universities.

■ With respect particularly to primary and secondary education, this Commission recommends the formation of an independent national commission to monitor quality and standards in primary and secondary education and to conduct and record research in related areas. We urge that the private sector take the lead in establishing and financing this commission. With respect to occupational training programs, Commissioners believe that the direction of reform presently being followed by the federal government is generally appropriate. Increased attention to on-the-job and job-related training is to be encouraged.

■ This Commission also recommends that the federal government:

- Provide a special wage subsidy for labour-force entrants who have not had other forms of vocational training or post-secondary education. The subsidy would normally be provided to persons 15 to 18 years of age and to women entering the labour force after discharging family responsibilities. The subsidy could be financed by eliminating other job-creation programs for young people.
- Provide, under the Income Tax Act, for a Registered Educational Leave Savings Plan which workers could use to help finance the cost of training. Careful consideration must be given to the type of program eligible for RELSP financing and to the possibility of requiring completion of any training or education undertaken in order to qualify for the advantage.

Commissioners wish to point out that the TAAP described earlier might significantly increase training requirements in Canada.



Access to higher education by low-income students should be an important avenue of upward mobility in Canada. However, for a variety of reasons, low-income students make far less use of higher education than do middle-income students, thus impeding both their own upward mobility and Canada's labour-force efficiency. Several of the barriers faced by low-income students are not susceptible to immediate government reduction. Family-socialization patterns and peer pressures can be influenced only very indirectly. But governments can and should ensure that undue financial barriers are not blocking the educational prospects of low-income students.

■ This Commission therefore recommends strongly that further attention be paid to improving access for low-income students. At the least, therefore, we recommend continued support for the Canada Student Loans Program and its provincial equivalents, and we recommend that loan limits be changed in consonance with other policy changes proposed in this Report, to remove any financial barriers that might exclude otherwise-qualified low-income students. We also wish to emphasize the importance of continuing to grant scholarships for students who excel, no matter what their income level, and of offering bursaries for low- or moderate-income students with above-average grades who might otherwise be reluctant or unable to continue their education.

Commissioners are concerned, however that the CSLP is increasingly unable to deal with the issue of student independence of parental support. Therefore we do not reject the concept of contingent-repayment loan schemes, and we recommend that governments continue to consider that possibility. □

## **Income-Security Programs**

While this Commission does not view Canada's problems over the next quarter-century as unmanageable, Commissioners do believe that many – perhaps most – Canadians will have to face the need to make adjustments that will maximize their own opportunities in the face of the effects of economic change. For most Canadians, these adjustments will not be severe, but for some they will be very difficult. This is particularly true for low-income Canadians, families with children that lack income adequate to meet family needs, and workers in peripheral regions or peripheral jobs. Economic change has always caused these Canadians more difficulty than middle-income Canadians, and it will continue to do so. Moreover, even without the impact of change, there are over one million Canadian families whose incomes are inadequate to cover any but the barest necessities, and many of these can be considered the “working poor”: families where one or more breadwinners are employed all or most of the year, but where incomes are still inadequate to meet their needs.

Middle- and upper-income Canadians get a great deal of public and private support as they adjust to economic change. They receive tax-supported

education and training, and their employers often foot a substantial portion of their adjustment costs. Low-income Canadians receive relatively little such support. In general, it often seems true that the poorer one is, the more one is left to one's own devices to cope with the forces of change or destiny.

For these reasons, among others, Commissioners believe that all Canadians have a duty and a right to share the costs of adjustment and to provide help to those who need it. That has always been the basic rationale for many of Canada's income-security programs, and it should remain so.

We Commissioners are also persuaded that there is enough money in our current personal tax-expenditure and transfer-payment programs to provide a comprehensive program of support for all deserving Canadians, but that current programs are often fundamentally flawed so that the current safety net is inappropriate. We believe that Canada can do much better than it has done in providing income support for our working poor and for those undertaking adjustments in their own lives in order to build a better future for themselves and their children.

■ The Transitional Adjustment Assistance Program would go some way towards providing assistance, but other reforms, too, are required. Thus Commissioners believe that the provision of a Universal Income Security Program with a universally available income guarantee, subject to reduction at a relatively low "tax-back" rate, constitutes the most appropriate foundation for Canada's income security programs.

- We therefore recommend that the UISP replace existing federal tax and transfer programs including:
  - GIS
  - Family Allowances
  - Child Tax Credits
  - Married Exemptions
  - Child Exemptions
  - The Federal Share of CAP Social Assistance Programs
  - Federal Social Housing Programs
- The replacement of these programs would make possible a universally available guarantee, in 1985, of approximately \$2750 per adult (and for the first child in a single-parent family) and \$750 per child with benefits reduced at a 20-per cent rate as other income was available. The elderly should receive an enriched option. A substantially larger guarantee of \$3825 per adult could be provided if the personal income-tax exemption were also included.
- The UISP should be put in place at the same time as the broad Unemployment Insurance reforms described above. The entire package should be in place in 1988. The package should be phased in, however, with a two-stage approach. In the first stage, which should begin immediately, the Family Allowance, Child Tax Credit, and Child Tax Exemptions should be eliminated and replaced with a single demogrant or tax credit of

approximately \$1000 per year in 1985, payable monthly. The total amount should be available to families with a total annual income of up to \$26 000. Beyond that level, benefits might be reduced at a 25 per cent rate. Experience rating for UI should also begin immediately, and social assistance payments under the CAP should be restructured to replace the present preemptive reduction of benefits above the current work-related/expenses level with a 50 per cent reduction rate. At the second stage of implementation, to be completed by the beginning of 1988, the full range of UI, UISP and TAAP changes outlined above should be in place.

Commissioners wish to emphasize that recommended benefit levels and structures are indicative only. While we believe them to be correct and appropriate levels in mid-1985, they will change with time. Moreover, the interrelationship among such features as basic guarantees and tax-back levels can be varied to achieve a number of effects.

We also wish to emphasize that while the federal government could implement most parts of this proposal unilaterally, these reforms are likely to be far more effective if they are carried out in co-operation with provincial government changes. The major reason for this is that provincial governments automatically receive larger tax revenues whenever the federal government eliminates tax exemptions and deductions. If the full value of these programs is to be maintained for the social policy sector, it will be necessary for the provincial governments either to provide harmonized transfers or to cede some tax points back to the federal government in return for delivery of the income-transfer arrangements.

- Commissioners recommend therefore, that these proposals be the subject of urgent and serious federal-provincial discussion. We urge the Government of Canada to introduce them to the federal-provincial agenda at an early federal-provincial ministers' meeting and to move forward quickly towards implementation.

The UISP is not intended to provide fully adequate benefits for all Canadians who have no other earnings or income; it is primarily a supplementation program intended to compensate for the fact that there is often a considerable mismatch between earnings and needs. Commissioners therefore recommend that provincial governments continue to provide needs-tested social assistance as a top-up to UI and UISP benefits where these do not fully meet pertinent needs. The equivalent of the current provincial share of social assistance payments should be adequate for this purpose. In addition, provincial governments could reap a substantial increase in tax revenues from some of the tax changes which would accompany the inception of the UISP. It is desirable that these funds should also be used to support income-security programs; that arrangement would make provision of topping-up arrangements financially easy.

The UISP seems to Commissioners to be the essential building block for social security programs in the twenty-first century. Should governments not



be able to implement it, a series of less complete reforms would at least ameliorate some of the worst features of the existing systems.

- Thus, failing the implementation of the UISP, Commissioners recommend:
  - Reform of the family-benefits program to reduce or eliminate the child tax exemption and the family-allowance program and to increase the child tax credit, which should also be made payable on a monthly basis
  - Reform of social assistance provisions of the Canada Assistance Plan to eliminate pre-emptive taxation of social assistance benefits as other income from employment, training allowances or similar sources is received. ☐

We wish to emphasize that these are partial reforms only, and that the more comprehensive UISP is a preferable choice.

## Social Services

This Commission did not undertake an extensive review of Canada's social service programs. We did, however, receive many representations about them, and we did develop several recommendations.

- Commissioners support the continuing devolution of responsibility for delivering social services to the community level and to non-profit associations. We strongly recommend, however, that this devolution not be handicapped by a reduction in funding, and that governments retain sufficient staff to exercise their monitoring responsibilities. The maintenance of funding is particularly important, since we could see no evidence whatsoever that social services, which include support for children, the elderly, the disabled and those with shorter-term social problems, are overfunded. Indeed, considerable evidence of underfunding was presented to us in our hearings.
- The major social services will also benefit from:
  - Further forms of assistance which will help users to become more self-reliant
  - Better integration of various forms of social and medical services at the community level

Access to many social services in Canada is now impeded by the "needs-based" approach of the Canada Assistance Plan. Only those "in [financial] need or likely to become in need" have free access to services, so that many Canadians just above the poverty level are effectively precluded from receiving such important support as family, marital and financial counselling or child-support services.

- This Commission recommends that the current federal-provincial financing arrangements be severed from social



assistance financing and renegotiated to provide Canadians with broader access to these services.

■ This Commission is not persuaded that extensive delegation of responsibility for social services to the profit-seeking part of the private sector is likely to improve significantly the services provided to Canadians. Where such privatization is practiced, we recommend that it be done in the context of very careful government regulation of the provision of services. Profit maximization, in our view, is not always the best motive whereby to govern human transactions.

There are currently two major task forces working at the national level to review day care in Canada; therefore this Commission has not conducted research in this area. Commissioners do, however, wish to note that the current CAP day-care guidelines actually serve to make access to publicly supported day care quite difficult for middle-income Canadians, and that the current \$2000 tax exemption for child-care expenses is much more valuable to upper-middle/class Canadians than to the majority of Canadian families. Both these provisions require reform.

■ Finally, Commissioners wish to pay tribute to the hundreds of thousands of Canadians who work through the voluntary sector to help their fellow citizens. We recommend that all levels of government should continue to support and nurture such activity by providing fully adequate support and supervision for the programs dispensed through the voluntary sector. □





## The Institutional Context

### Conclusions and Recommendations

The more government Canadians have, the more democratic we must become. The institutions of responsible parliamentary government remain the key to keeping government our servant rather than seeing it become our master. Commissioners regard Parliament as the principal forum for public debate and intend our recommendations to contribute, in general, to the strengthening of this institution.

To restore Parliament as the principal forum for national debate, we must not only bolster its democratic processes, but we must also improve its capacity to reconcile national and regional interests. We wish neither to reassert the dominance of the national government in line with the prevailing opinion at the time of Confederation, nor to establish the provincial order of government as an integral part of national government.

With regard to federalism and intergovernmental relations, two basic needs influence Commissioners' general objectives. First, it is desirable to clarify where possible, by constitutional amendment, by delegation or intergovernmental agreement, or by more clearly defined policy directions, the responsibilities distributed between federal and provincial governments. Secondly, recognizing the complexity of modern government and the interdependence within our federation, it is desirable to introduce greater certainty and stability into existing intergovernmental processes. We seek neither to eliminate intergovernmental conflict nor to further the development of non-accountable institutions. Rather we seek to secure and give greater public recognition to minimal processes and structures that will moderate the excesses and costs of unresolved conflict and channel creative solutions to common problems.

Commissioners view the Charter of Rights and Freedoms both as a guarantee of specific rights and freedoms of citizens and as an important

element of the framework within which Canadian society can evolve. This is consistent with our view that constitutional law should be responsive to social change and evolving values and attitudes, and that it should stabilize the pace and direction of such change.

## **Responsible Government and Public Accountability**

■ The Canadian practice of party government has restricted the opportunities for Members of Parliament to participate in the development of public policy outside the confines of party caucuses. Organized special interest groups now challenge MPs as representatives and frequently bypass them.

- MPs could gain more influence over public policy if members in committee could investigate and debate matters of public interest on which party positions have not yet been established or fully determined. The separation of legislative committees from investigative committees would help to achieve this end by serving to provide Parliament and the government with policy analysis and guidance distinct from that which is received from administrative officials or extra-parliamentary sources.

- Parliament need not diminish the activities of interest groups, but it should provide the principal public forum for these interests to define their concerns. Parliament should encourage these groups to present their positions and demands for an open examination in relation to general interests. There should be a small number of parliamentary committees focusing on comprehensive policy matters—the budget, regulatory policy, Crown corporations, and federal-provincial relations, for example—and these would be ideal forums for such scrutiny.

- Agencies such as the Public Service Commission, the Office of the Commissioner of Official Languages, the Privacy and Information Commissioners and the Office of the Auditor General have important functions, but receive insufficient direction and control from our elected representatives in Parliament. In order to ensure accountability of these agencies, Parliament must define their procedures and basic strategies. Commissioners suggest that the Public Service Commission, the Office of the Commissioner of Official Languages, and the Privacy and Information Commissioners review their work before a Parliamentary Committee on the Public Service. This committee would study the success of these agencies in meeting the various criteria set by Parliament. The same committee, since it would be familiar with the performance of these agencies, should review their financial estimates. The Public Accounts Committee would perform this role in relation to the Office of the Auditor General.



- The federal government has formalized Cabinet structures, processes and support services in recent years, in order to restore ministerial and parliamentary control over an expanded and complex administrative structure. Although central agencies have partially checked the dispersal and diffusion of power to public servants, they can do so effectively only when under the close direction of ministers; otherwise, central agencies themselves become yet another layer of bureaucracy to be controlled.
- We have given too much autonomy and discretion to non-departmental forms of government organization such as Crown corporations and regulatory agencies. Such autonomy has undermined the principles of responsible government. To correct this situation, Commissioners recommend that greater “control” of Crown corporations be defined in the context of a reformed competition and regulatory environment, and not just in the framework of administrative accountability, in accordance with the current trend. Especially for commercial Crown corporations, governments need greater strategic control, not day-to-day interference in management decisions. Moreover, Cabinet should strengthen its review of regulations formulated by regulatory agencies.
- Although some prominent political appointments have violated the ideal of a neutral public service, it is not true that the senior bureaucracy has become politicized. The system of appointments by Order-in-Council based on professional merit on the recommendation of the Clerk of the Privy Council has worked well. However, political advice to the Prime Minister has traditionally been the basis of appointments to a large number of boards and agencies. This category may be too large; the public might be better served if more of these appointments were based exclusively on merit. An all-party group designated by the proposed Parliamentary Committee on the Public Service should review the current use of Governor-in-Council appointments to boards and agencies, the foreign service, high levels in departments, and Ministers’ staffs, in order to help distinguish between two categories of positions: those where partisan sensitivity justifies political appointments, and those where partisan sensitivity is not at issue and where professional merit should prevail. Commissioners’ opinion is that this general review process should be continuous, and that appointments of no clear partisan value should be made on a basis of “merit”.
- In light of the accelerating challenge to democratic controls presented by the increasing international responsibilities of the state, Commissioners believe it is desirable to provide secure foundations for parliamentary ratification of international treaties and for other measures to ensure parliamentary review of executive action in the international domain. □

## **Representative Government and National Socio-Economic Interests in Economic Policy Formation**

It is important to facilitate more direct and continuous involvement of representatives of Canadian interest groups in public decision making, especially in economic policy. Those interests need to interact more with one another and to take greater account of the broader concerns and conflicts within Canadian society for the resolution of which Parliament itself is ultimately responsible.

In comparison with the formal structures that have developed in some Western nations, Canadian consultative practices tend to be fragmented, informal and episodic. Current practices may be inadequate in light of recent Canadian experience and anticipated needs, such as the continuing pressures of economic adjustment. However, we do not recommend a corporatist or tripartite style of government/private sector relations.

■ Although substantial secrecy is necessary in relation to the preparation and release of the budget, Commissioners recommend that guidelines are needed to allow less comprehensive budget secrecy than now exists. We urge the House of Commons to initiate a change in the convention of comprehensive budget secrecy in order to set in motion steps towards more effective advance discussion and consultation arrangements.

It would be desirable to seek federal-provincial agreement on the timing of budgets, so that their presentation could be co-ordinated, with the federal budget either preceding or following most provincial budgets by two or three months. Pre-budget consultation should occur in several forums, but particularly in the House of Commons.

A continuing national dialogue on general directions for economic policy requires a permanent national forum. This Commission favours establishment of a permanent Economic Policy Committee of the House of Commons. The Committee would hold an annual series of pre-budget hearings timed to allow its work to influence budget preparation. It would take testimony about the nation's economic prospects from the Department of Finance, the Bank of Canada, and the Treasury Board, as well as from agencies such as the Economic Council of Canada; it would also gather the views of major groups, including national representatives of business, labour and other associations.

The Committee would scrutinize the government's performance and the revenue and expenditure implications of the positions of key interests. It should schedule its budget review to co-ordinate with its other responsibilities and with the timing of the annual First Ministers' Conference. Moreover, it would be necessary to adjust the internal priorities and planning cycle of the federal government in light of the accepted federal-provincial cycle.

Continuation of sectoral and industry-by-industry dialogue on improving Canada's economy is essential. Discussions should bring

together representatives of business and labour, and federal, provincial and municipal governments and other groups, as necessary. Government participation may not always be required. In light of these conclusions, Commissioners recommend that such sectoral discussions be developed within the following guidelines:

- Consultative mechanisms should focus on clear, specific objectives. This approach will make them more likely to be successful.
- Consultation should be a continuing process with reasonably predictable arrangements. Permanent or standing groups may be required in some cases.
- Governments must make a firm commitment to any consultative process they undertake. Effective consultative arrangements require that non-government participants have some influence on the agenda and decision-making schedule. Responsibility for the overall policy-making process, however, rests with the government of the day.
- Consultative processes aimed at consensus building must be supported by fair representation from many groups in society and, normally, by parity between business and labour.
- Sharing and refining of information are prerequisites to these consultative processes. □

## **National Institutions and the Representation of Regional Interests**

Commissioners believe that the federal principle requires that the House of Commons, chosen on the basis of representation by population, be balanced by a second chamber based on representation by region. Our institutions should recognize the federal principle, provide greater regional representation, and respond to regional interests in national policy making and administration.

■ Commissioners recommend that the Senate embody the federalist principle and provide the regional representation lacking in the House of Commons.

- A reformed Senate must build on our practice of party government in its elections, caucuses and discipline. The Senate must be elected, and election to the two Houses should take place at the same time.
- In the Senate, representation should be weighted in favour of the less populous regions. All regions need not be considered equal, for the Senate should only temper, not obstruct, representation by population.
- The Senate should be elected by a system of proportional representation. The governing party is more likely to have elected representatives from all regions within its parliamentary



caucus, even if, for one or some regions, they secure places only in the Senate. A Senate elected on this basis should ensure that the governing party will usually be able to constitute a Cabinet that includes members from all regions.

- We recommend that Senators be elected in six-member constituencies. This number is large enough to effect the intended proportional representation and yet to allow for some recognition of the regions within provinces. Yukon and the Northwest Territories could elect their Senators on simple plurality. Existing numbers of Senators would be modified and distributed as follows:

	Existing	Proposed
British Columbia	6	12
Alberta	6	12
Saskatchewan	6	12
Manitoba	6	12
Ontario	24	24
Quebec	24	24
New Brunswick	10	12
Nova Scotia	10	12
Prince Edward Island	4	6
Newfoundland	6	12
Yukon	1	2
Northwest Territories	1	4

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- The Senate does not require a veto to temper, on regional grounds, the legislative majority of the House of Commons. Commissioners believe that the Senate should have a six-month suspensive veto, except in relation to legislation with linguistic significance; such legislation would require approval of a majority of francophone Senators, as well as of the Senate as a whole.
- If Senate reform along the lines proposed here is not adopted within a reasonable time, efforts should be made to reform the electoral system of the House of Commons to enhance regional representation. In that event, Commissioners favour the proposal of the Task Force on National Unity to add 60 members to the Commons, distributed to parties on the basis of their share of the national popular vote and allocated to provinces on the basis of the degree to which the parties were "underrepresented" in seats won, or not won, in relation to their share of the popular vote in each province.

Many federal departments and agencies have not assumed responsibility for regional development within their mandates. This failure has lessened the executive branch's capacity to be regionally responsive and has undermined the effectiveness of regional representation in Cabinet.

- This Commission therefore recommends that:
  - The central administrative agencies should be structured so as to provide more regional information upon which the Cabinet



can base policy decisions. This requires that regional offices be part of the central agency apparatus supporting the Cabinet and the Prime Minister.

- The Cabinet should decentralize departments and agencies for purposes of policy planning and development. Sectorally organized departments should incorporate the regional dimension fully in departmental planning and policy development. There should be regional officials in the central administrative decision-making of departments.
- Regional representation should receive consideration in nominations to the boards of Crown corporations and regulatory agencies. If the Senate becomes an elected body, appointments of the heads of major Crown corporations and all members of the governing boards of major regulatory agencies should be subject to the approval of a Senate committee to be established for this purpose. □

## **Barriers within the Canadian Economic Union**

Despite recent expressions of concern that the Canadian economic union is becoming increasingly balkanized and fragmented, goods, capital, services and people now move relatively freely within the Canadian common market.

While lost economic output from impediments to free movement and distortions of the common market appears small, private economic actors have indicated that the policies in question create considerable difficulties for them. Even more than the economic rationale, the political rationale for the national right to free movement is a powerful idea for most Canadians.

The effect of these distortions – and the need for effective co-ordination of economic policy – are likely to increase as Canadians face greater competition from the outside world. We should create incentives to international competitiveness, and we should facilitate appropriate adjustments.

The economic union implies elimination of internal barriers and positive measures to facilitate operation of the market, to overcome market imperfections and to pursue effective stabilization, industrial and social policies. All regions must share in the benefits of economic integration.

Internal barriers may be the response of governments to local preferences, and often reflect our commitment to redistribution of income and opportunity. Thus, the challenge, in particular cases, is not simply to eliminate the barriers through constitutional prohibition or other means, but rather, how to balance the economic benefits of free movement against other goals to which Canadians aspire. The trade-offs to be made are not exclusively between economic efficiency and political diversity or provincial autonomy within the federation: Canadian federalism also involves a national community with its own requirements. Moreover, as the Canadian Charter of Rights and Freedoms makes clear, individual rights have implications for the economic union.

The goal of regional development requires that Canadian economic policy must seek not only to maximize aggregate national income, but also to encourage the economic development of individual regions.

■ Commissioners urge that a broad view be taken of the scope of section 121 of the Constitution Act, 1867, consistent with an interpretation that section 121 covers services as well as goods, and non-tariff barriers as well as tariffs. However, in light of existing controversy and uncertainty, it may be prudent to seek eventual clarification by constitutional amendment.

- We would recommend a limited amendment to include services to reflect current conceptions of the nature of interprovincial trade. On the issue of non-tariff barriers to trade in goods and services, we recommend as an interim step that governments agree to a Code of Economic Conduct.
- The governments of Canada should develop a Code of Economic Conduct to spell out acceptable practices, set out the principles of the economic union, and provide for enforcement. We advance a series of general guidelines for consideration:
  - The code should confirm general principles of the economic union applicable to both the federal and provincial governments:
    - Reduction of barriers to the allocation of capital, labour, goods and services throughout Canada
    - Non-discrimination against persons (individuals and organizations) based on province of residence
    - Commitment to minimizing the costs of provincial programs that might fall on the residents of other jurisdictions, and to prior consultation for this purpose
    - Recognition of the need for a transportation, communications and information infrastructure to support national economic development with significant regional benefits.
- The burden of demonstrating that a barrier did not violate the principles of the Code should lie with the authority imposing the barrier.
- The Code should identify major areas where reduction of barriers to internal trade should begin. Attention should focus not only on the form of the barriers, but also on the anticipated effects. The possibilities of substitution between types of barriers are extensive, and provinces vary in economic development and in their potential to inflict injury on other jurisdictions or the residents of those jurisdictions. Those drafting the Code might first consider barriers that prevent Canadian enterprises from being internationally competitive.
- Initially governments should set up the Code, and public and governmental pressure should enforce it. The intergovernmental process would provide the appropriate forum for dealing with the politically sensitive issue of internal barriers to trade. After

experience with the operation of the Code, we should move to entrench its principles in the Constitution and to enforce the Code through some other form of binding intergovernmental agreement.

- To develop the Code of Economic Conduct, monitor the state of the economic union, and explore methods for co-ordinating policies, the First Ministers' Conference should create a Council of Economic Development Ministers.
- To initiate the process of identifying and controlling internal trade barriers, Commissioners propose the following procedure. The Council will ask each government to list barriers imposed by other governments that they believe harm its provincial economy or its residents. Next, each government would be required to explain and defend those of its policies identified at the first stage. A Federal-Provincial Commission on the Economic Union would receive this material and would analyse the barriers, their probable consequences, and the justifications declared. The Commission would identify violations of the principles of the economic union and make recommendations concerning specific terms for the proposed Code. It would send this report to the Council for action.
- A Federal-Provincial Commission on the Economic Union which would serve the Council of Economic Development Ministers would have responsibility for preparing materials for the Council as directed:
  - Analysing the first round of barriers identified by the Council's initial inquiry
  - Initiating research on the state of the economic union and methods for improving it
  - Receiving complaints from groups, individuals and corporations affected by government actions threatening the economic union, investigating them, and reporting on them, with recommendations, to the public and the Council.

If a Code is eventually made legally enforceable, the Commission could become a regulatory agency, but one that regulates governments. □

## **Economic Management**

In several specific areas related to our concern with the international environment, the Canadian economic union, and economic adjustment, Commissioners believe that constitutional changes are desirable for more effective economic management; Canada requires a procedure which would allow treaties, once concluded, to be binding and enforceable on both federal and provincial authorities within Canada.

- We recommend a constitutional amendment to provide that where a proposed treaty contains provisions that require



implementation by provincial legislatures or affect rights within areas of provincial jurisdiction, the relevant sections should be ratified by provincial legislatures. We propose the application of the amendment formula for this purpose so that sections of a treaty imposing obligations on provinces would come into effect on the passage of resolutions in the legislatures of two-thirds of the provinces, representing at least half of Canada's population. We do not see this recommendation as having immediate application to negotiations with the United States on a free-trade agreement. We would recommend, however, that a constitutional solution be in place before the proposed trade agreement would come up for review in the 1990s.

- To clarify jurisdiction and roles in the field of telecommunications, we recommend concurrent jurisdiction with federal paramountcy.

- To clarify responsibility regarding certain aspects of overall regulation of trade and commerce, we propose that section 91(2) be amended to provide explicitly for federal regulatory power over competition and product standards.

- If intergovernmental agreement is not reached soon on the harmonization of regulations respecting interprovincial trucking, we recommend that serious consideration should be given to bringing this matter under federal jurisdiction. □

## **Equalization**

The principle of equalization, an essential element of Canadian federalism, represents a commitment to all provinces that economic misfortune will not undercut their constitutional role. It contributes to a true decentralization of government functions, in spite of the differing economic capacities among provinces.

Commissioners stress the distinction between equalization payments and regional development programs. The former are intended to offset economic disadvantages, while the latter are intended to reverse this disadvantage. Equalization payments are necessary only because of our lack of success in combatting regional economic disparities. In practice, this means that regional development financing must be added to equalization disbursements; the federal government should not cut one in favour of the other.

- The federal government's responsibility for interregional redistribution gives it a leading role in designing and operating the equalization scheme. Commissioners recommend that the following changes to the equalization system be discussed with the provinces:

- Canada should return to a representative tax system that includes all 10 provinces in the base. The present five-province



calculation base allows too much room for distortion, strategic behaviour and unintended side-effects.

- Equalization payments should include some portion of resource revenues. There is no magic figure here, but the 20 to 30 per cent range seems an appropriate compromise, since it approximates the amounts that would accrue to provincial treasuries in the form of tax revenues if natural resources were in private hands.
- The concept of including needs as part of the entitlements calculation is attractive. Commissioners recognize, however, that this can develop only slowly, given the amount of data required and the serious practical difficulties involved. The inclusion of needs in the calculation will be especially important if the Northern territories enter the scheme. □

## **Regional Development**

This Commission believes that regional development must remain an essential component of Canadian policy and, indeed, of the Confederation bargain as now reflected in section 36 of the Constitution Act, 1982. It must be recognized, however, that policies intended to promote regional development have often hindered the overall efficiency of the national economy in that they impeded inter-regional adjustment and distorted regional development. Canadians need to reconsider the way in which we look at regional economic disparity, what we do to overcome it, and the institutional mechanisms we bring to the task.

■ We recommend a new federal-provincial system of sharing regional development expenditures and responsibilities.

- The federal government should direct regional development programs toward improving regional productivity and the efficiency of the labour market. To these ends, such programs should include measures to improve worker and management skills, enhance research and development efforts, ensure a high level of infrastructural support, and supply assistance for intra- and inter-regional mobility. The federal government should not only provide such programs on a national basis, but should also make a special effort in the less developed provinces. While it might make sense, too, for the federal government to provide assistance for plant modernization as a means to enhance regional productivity, we believe that it should provide this type of assistance on a national basis, if at all, or that the provincial governments should take on this responsibility on a regional basis.
- Under this arrangement, the federal government would end all explicit and direct regional employment-creation programs. While national schemes would continue, federal subsidies, tax

breaks, and so on, intended only to generate jobs in, or attract firms to, a particular locale, would be eliminated. Similarly, the federal government would terminate regionally differentiated unemployment-insurance programs, tax credits, and other measures that tend to distort regional labour markets. Funds formerly allocated to these types of programs would instead become the source of Regional Economic Development Grants.

- Provinces that qualify for equalization payments would be eligible for Regional Economic Development Grants. The amounts of the grants would be determined by a formula on a per capita basis, and they would be proportionate to the degree of fiscal disparity identified by the equalization formula. As noted earlier, equalization payments are necessary to offset economic disparities, while the purpose of these new grants would be to reduce future disparities. They would be re-negotiated every five years.
- Provinces would assume full responsibility for local or place-specific employment measures as part of their own approach to regional development. They would be free to use the Regional Economic Development Grants for this purpose, subject only to two conditions:
  - Each recipient province would sign an Economic and Regional Development Agreement (ERDA) with the federal government, which would set out a broad economic development plan for the province (and for each other province) and would indicate the measures to be carried out by both orders of government. Some elements of these packages might take the form of shared-cost programs or federal contributions to provincial activities; in general, however, Commissioners recommend that under the ERDA umbrella, each government remain responsible for the implementation and delivery of its own programs, in order to enhance accountability.
  - The recipient province would be required to sign the proposed Code of Economic Conduct to improve the functioning of the Canadian economic union.
- While recognizing the immediate need for financial prudence at the federal level, Commissioners believe that the total federal financial commitment to regional development – combining the Regional Economic Development Grants and other funds spent through ERDAs – should increase significantly over the next few years.
- The federal government would continue to play an important role in other development efforts which have significant regional impacts such as:
  - A reformed equalization system
  - The proposed Universal Income Security Program and the Transitional Adjustment Assistance Program

- Sectoral policies, such as those pertaining to fisheries, agriculture, and forestry. These should be designed according to criteria for good sectoral policy (see Parts III and IV of this Report), but they ought to also be developed in close consultation with provincial governments where these are affected to an important degree.
- A sustained federal commitment to regional development requires that a single central agency be responsible for injecting regional concerns into the programs of individual federal departments, and for co-ordinating federal efforts. It would appear to Commissioners that the Federal-Provincial Relations Office (FPRO) reporting to the Prime Minister, would be the appropriate existing body. We believe also that the Federal Economic Development Co-ordinator (FEDC) or other senior officials resident in each province could help to co-ordinate federal activities within each province, interacting with the provincial government and establishing links with local economic interests. The federal government should enlarge the responsibilities of such federal regional officials, who should report directly to FPRO. □

## **Fiscal Arrangements**

### ***Tax Collection Agreements***

The Tax Collection Agreements have served Canada well. They are convenient for both citizens and governments, and they help to maintain harmony and contribute to the strength of the economic union. They should be retained. Nevertheless, the agreements are presently under considerable strain, and are in some danger of disintegrating. This Commission's proposed reforms are based on the desire to maintain the agreements, but not at an excessive cost either in terms of the accountability of legislatures or in terms of the flexibility which exists in the system.

■ Commissioners therefore recommend that:

- The agreements be amended to place the personal income tax on the same footing as the corporate tax, applying the provincial rates to the common, federally determined base. This measure would not only reduce provincial vulnerability to federal tax changes, but would also enhance provincial autonomy, since it would become easier for provinces to decide how progressive their own tax rates should be.
- The federal government consult with provinces before introducing any tax change which would have a significant effect on the federal-provincial relationship. This recommendation is consistent with Commissioners' larger concern to reduce budget secrecy for federal and provincial governments and to ensure that federal budget proposals receive wide discussion in Parliament.



- To provide greater consultation on taxation matters of a more fundamental nature, Commissioners recommend that a new federal-provincial Tax Structure Committee be given the following mandate:
  - As part of the regular process of the quinquennial review of federal-provincial fiscal arrangements, the Tax Structure Committee would re-examine the definitions of taxable income, basic exemptions, marginal tax rates, and the like. This is really an endorsement and extension of a consultation process which is already in effect. The Tax Structure Committee would also monitor the division of tax room between the two orders of government, in light of anticipated revenue and expenditure needs, and of the difficulties of managing restraint.
  - As part of the overall concern for the economic union, the Tax Structure Committee could also discuss the implications of federal or provincial tax credits and subsidies. It would thus assist the Council of Economic Development Ministers which, we propose, be responsible for the development of an overall intergovernmental Code of Economic Conduct. This Committee would be composed of representatives of all governments, including those now outside the agreements. □

## **The Spending Power and the Impact of Fiscal Restraint on Intergovernmental Transfers**

Although Commissioners do not recommend formal limitations on the spending power, we consider that this power has important consequences for federalism and therefore should be exercised with special restraint and subject to certain guidelines concerning its use.

- Commissioners thus recommend that the spending power be retained as a vital instrument for flexible responses to changing definitions of the national interest, subject to the conditions that:
  - The judicial distinction between federal legislation providing grants or gifts and federal legislation involving direct regulation in fields of provincial jurisdiction is appropriate and should be further refined.
  - As a matter of principle within the federation and for purposes of accountability and clarity of roles, the federal government regard new shared-cost programs as a last resort in pursuing its objectives.
  - The use of the federal spending power in areas of provincial jurisdiction be supported by broad national consensus. In addition to the contribution to consensus which an elected Senate with stronger regional representation will make, consultation through the Federal-Provincial Ministerial



Councils and, ultimately, the First Ministers' Conference is essential, not only in relation to new programs, where it will occur in any case, but also in relation to the proposed alteration or termination of a program by the federal government. Designated periods of operation of, say, five years, could be considered for program renegotiation.

- In order to retain a desirable degree of federal flexibility and accountability to Parliament while assuring provinces some stability for planning and protection against rapid unexpected variations in federal spending, we recommend that:
  - Federal-provincial transfers be subject to a review on a five-year basis.
  - During that period, the federal power to make adjustments be limited to, say, 5 per cent in any given year, without provincial approval. □

## **Intergovernmental Relations and the Institutions of the Federation**

The intense intergovernmental conflict Canada experienced in the 1970s may be partly attributed to institutional limitations. Interdependence in modern federalism is inescapable and needs to be managed, as do the excesses of intergovernmental competition.

This Commission's goal is to encourage a more functional approach to federalism, one not oriented towards centralization/decentralization, but one which emphasizes the potential contribution of Canada's federal arrangements to the well-being of Canadians. Canadians should create political institutions to co-ordinate activities involving both orders of government.

While greater co-ordination of federal-provincial affairs would be desirable, Commissioners believe that the diversity of government action inherent in a federal state is also a positive contribution to society. Thus we have tried to strike a balance between encouraging institutional diversity or competition and proposing new measures of federal-provincial co-ordination.

■ Commissioners do not recommend comprehensive constitutional amendment as a means to modernize the division of powers. Instead, we urge the use of more flexible instruments to clarify or transfer the location of responsibility. To this end, we recommend that:

- The power of intergovernmental delegation be expanded so that on a particular matter, law-making authority could be delegated to another jurisdiction. Such delegations should be approved by the legislatures of all jurisdictions involved
- Constitutional amendment be used to establish a procedure that would permit the Parliament of Canada and provincial legislatures to enter into intergovernmental agreements that would be binding on their successors

- The powers of reservation and disallowance, now by convention virtually “dead letters”, be formally interred by means of an appropriate constitutional amendment.
- To provide essential recognition of the need to manage intergovernmental interdependence, and the need to co-ordinate policies and activities, the First Ministers’ Conference should be established in the Constitution with the requirement that it meet at least once each year. Such an institution must in no way encroach on the principles of responsible government.
- First Ministers may eventually wish to consider the creation of a body comparable to the Advisory Commissions on Intergovernmental Relations in the United States and in Australia. “Third parties” of this nature may facilitate behind-the-scenes resolution of intergovernmental conflicts and contribute to improving the context of information, analysis and public opinion to which the intergovernmental process will need to respond.
- Despite a plethora of federal-provincial bodies, current intergovernmental discussions are sporadic and lack co-ordination. Our purpose is to suggest a core framework of federal-provincial mechanisms which, in a more streamlined way, would support the First Ministers in their collective and individual responsibilities. Commissioners propose that the First Ministers’ Conference appoint a network of Councils of Ministers to serve in major functional policy areas and to be supported by continuing committees of officials. We believe that three central Ministerial Councils should be established in the fields of Finance, Economic Development, and Social Policy. We therefore recommend that:
  - The *Council of Finance and Treasury Ministers* which now exists and meets from time to time regarding fiscal arrangements, economic projections, and macro-economic policy be formalized to encourage greater regularity of assembly, better co-ordination of budgetary preparations, and to receive the findings of the new Tax Structure Committee, which would monitor tax developments
  - The *Council for Economic Development* seek agreement on common objectives in economic development and trade policies and identify opportunities for mutually beneficial links among regions. The Council would be responsible for monitoring and assessing the state of the economic union and would serve as the vehicle through which to develop a “Code of Economic Conduct”.
  - The *Ministerial Council on Social Policy* consider all facets of social policy, especially in the fields covered by Established Programs Financing and the Canada Assistance Plan. Consultation with practicing professionals and interested groups and individuals is particularly important in this area. We would

encourage Parliamentary Committees to play a stronger role in this activity.

- To ensure that governments are held accountable for their conduct of intergovernmental affairs, Commissioners recommend that Parliament and the provincial legislatures should establish permanent standing committees responsible for Intergovernmental Relations. □

Differing provincial regulations create inconvenience for those who wish to operate nationally. The impetus for interprovincial efforts towards harmonization must arise through the pressure of groups adversely affected by interjurisdictional variations. Commissioners therefore propose no specific institutional changes designed to enhance harmonization of provincial laws.

## **The Charter of Rights and Freedoms**

### ***The Charter and Constitutional Government in Canada***

The Charter of Rights and Freedoms signals a significant transformation of the relationship between citizens and the state in Canada. Most noteworthy are the important limitations imposed on the constitutional authority of legislatures and the elevated role of the judiciary as guardians of the constitutional rights and freedoms of individuals. The Charter will also further the rights of citizens to review and assess government actions, and it will contribute to a fuller and more regular discussion of citizen rights in Parliament. Its guarantees will probably become the basis for individuals and groups to introduce issues to the national and provincial political agendas.

The scope and application of the Charter will be tested constantly through both the legal and political processes. The Charter is not, however, a springboard for unlimited claims of citizen rights, for there are reasonable limits to its guarantees. Ultimately, its effectiveness in protecting the rights and freedoms of citizens and in enhancing democracy will be determined by the way in which citizens use this document.

■ This Commission believes that the changes recorded and introduced by the Charter should be given a broad scope in interpretation and application. Departures from its guarantees should meet stringent tests and conditions, justifying the circumstances of exception.

■ The Charter's general override provision should contribute to public awareness of legislation limiting the constitutional rights of citizens in Canada. Overriding legislation should include a declaration of intent to legislate, notwithstanding a provision of the Charter, and should include not only reference to the specific rights being overridden, but also an indication of the purpose of such legislative action. Such a statement of purpose would help the courts to ensure that limitations do not exceed what is necessary to achieve their objective; it could also be a useful reference point in discussions on whether to extend the override after the five-year period.



■ Commissioners do not suggest constitutional amendments to change and improve upon the Charter's words. Rather we consider various interpretations of the Charter which we think will serve to maximize the desirable impact it can have on Canadian society. Two examples illustrate our approach:

- We favour a broad and flexible application of the Charter at the periphery of government activity, as well as in its more visible legislative forms.
- Similarly, in the matter of the Charter's guarantees of personal mobility rights, we conclude that preferential provincial employment schemes permissible under the Charter should be strictly limited to the socially and economically disadvantaged within a province. Such programs should not preclude the federal government from simultaneously pursuing employment-opportunities programs in that province.

Inherent in the Charter of Rights and Freedoms is an attempt to overcome some of the problems of national unity that have pre-occupied Canadians since the mid-1960s. This is especially evident in the Charter's provisions respecting mobility rights, official languages and minority official-language education, as well as multiculturalism.

With regard to ethnic diversity in Canada, Commissioners believe that multiculturalism policy should seek to create circumstances that permit all Canadians to preserve and enhance their cultural heritage within the broader Canadian tradition of individual equality. Multiculturalism is not a justification for cultural or racial discrimination. For visible minorities, in particular, racism must be addressed through more than multicultural policy. There is a systemic aspect to racial discrimination in Canada. As with other patterns of systemic discrimination affecting groups such as women, the handicapped and other identifiable groups, the Charter plays an important role as both an educative and legal instrument in enhancing equality.

The Charter's equality-rights guarantees embody a broad definition and understanding of equality. These guarantees reflect contemporary notions of substantive equality in giving assurance of equal benefit of the law and equality under the law. By enabling affirmative action programs, the Charter responds to contemporary concerns about discrimination against various groups in society.

■ Commissioners believe that governments have a leadership role to play in breaking down these patterns of discrimination and we believe, too, that affirmative action is a valuable tool for this purpose. Accordingly, we view the provision in the Charter enabling governments to pursue affirmative action programs as a valuable reinforcement of government's role. Equality, however, must ultimately relate to individuals, and affirmative action must be supplemented with other programs designed with individual equality as the ultimate goal.



■ The Charter both contains guarantees of individual equality and elsewhere recognizes special rights of various groups, such as official-language minorities and Canadian aboriginals. We believe that when group rights are inconsistent with rights of individual equality, the latter, as a general rule, should prevail. □

## The Supreme Court of Canada

The members of the Supreme Court of Canada do not perform representative functions in the Canadian institutional and constitutional system. Judicial merit alone is the criterion by which the Court's membership and performance should be assessed. Accordingly, Commissioners reject arguments that the composition of the Supreme Court should be regionally representative. Existing provision in the Supreme Court Act for the appointment of Quebec members is based on the distinctive legal traditions of that province. We also reject socio-economic representational claims about Supreme Court of Canada membership, which we anticipate may emerge as the Court addresses complex Charter litigation involving citizen-state relations.

The central issue in the appointments process is the perception that it does not adequately involve the constituencies ultimately affected by Supreme Court decisions. Although the existing informal procedures followed by the Prime Minister before making appointments to the Supreme Court do involve extensive discussions, they are sometimes perceived as not taking sufficient account of concerned interests or advice. Measures to shift responsibility from the Prime Minister to some designated group or institution necessarily involve replacing one political process with another. If a broadly based political process of consultation is to be replaced by alternative arrangements, an elected Senate has much to commend it.

■ The constitutional status of the Supreme Court and, in particular, the independence of the Court, should be clarified by entrenchment, although there is no reason to remove responsibility for the administration of the Court from the federal government. □

## Quebec

### *The Distinctive Character of Quebec Society*

Quebec is characterized by the presence within its borders of a largely francophone population which controls and gives direction to its own political and social institutions. The existence of this institutional framework which reinforces the distinction between the majority status of francophones within Quebec and the position of francophones elsewhere in Canada is central to *la spécificité du Québec*. The very essence of Quebec society lies in the fact that it is the principal, though not the exclusive, focus for the political dimensions of French life in Canada. To a large extent, Quebec remains a linguistically isolated society, an island of French in an overwhelmingly anglophone sea.

For Quebec and for francophones outside the province, the central challenge will always be how to remain French in North America.

This challenge entails practical problems in the cultural and economic domains for whose resolution Quebecers and francophones outside Quebec, individually and collectively, are, themselves, ultimately responsible. But constitutional recognition of Quebec's distinctiveness and of Canada's duality would provide an affirmation that answers to the practical economic and cultural problems of French life can be pursued within the Canadian context and with the support of the rest of Canada. The necessary compromises could thus be worked out in a clearly understood context of recognition and affirmation of a cultural complementarity which is at the very heart of the Canadian experience.

■ The initial requirement at the level of principle to secure a renewed understanding between Quebec and the rest of Canada is a statement in the preamble to the Constitution along the following lines:

*Recognizing the distinctive character of Quebec as the principal, though not the exclusive, centre for Canadian francophones and accepting as fundamental the duality of the Canadian federation . . .*

### **Fundamental Guarantees**

As a consequence of Quebec's uniqueness, steps should be taken to ensure that no future constitutional amendment as noted below be imposed on Quebec which that province might consider to affect its fundamental interests as a distinct society:

- Concerning transfers of legislative powers from the provinces to Parliament, the simplest means to provide Quebec with the necessary protection, without putting the principle of equality of the provinces in question is to grant each province the right to opt out of any general arrangement with full compensation in all cases.
- In relation to reforms of national institutions which are not covered in the present opting-out formula, the only means to protect the interests of Quebec is through the right of veto. An obvious solution would be to grant all provinces such right in conformity with the equality principle. In the long run, this move could, however, freeze the natural development of our national institutions. Although granting Quebec the right of veto is an arrangement politically more difficult to obtain, it is closer to the intended objective, for it is the distinctive character of Quebec society for which protection is sought. It is important that Quebec have a right of veto on any amendment to the institutions described in section 42(1) of the Constitution Act, 1982, if such an amendment touches on the special character of Quebec and the duality of Canada. One method of implementing such veto would be to amend immediately section 47 of the

Constitution Act, 1982, in order to grant French-speaking Senators the right to block proposed amendments affecting Quebec under the double-majority formula described below.

### *The Senate and Quebec*

- With regard to federal legislation, any proposed bill with linguistic implications, before becoming law, should require a double majority of the Senate: that is, the approval of a majority of all Senators and of a majority of francophone Senators. Such veto would be a full rather than a suspensive veto. In light of the protection offered by this double-majority proposal, Commissioners see no need for specific guarantees to Quebec of a certain proportion of seats in the House of Commons.

### *Division of Powers*

- Because of Quebec's distinctiveness, the most obvious fields where conflicts may arise between that province and the federal government are education, external relations, immigration, communications and culture. There are ways in which Quebec could participate in dealing with these areas. While we make no recommendations, we do suggest that legal mechanisms such as delegation and inter-governmental agreements may provide a better means of accommodating the specific interests of Quebec than would constitutional amendment.

### *Francophones Outside Quebec*

- The diverse communities of Francophones in Canada outside Quebec are currently in a state of crisis. If they are to survive and flourish, prompt action is required. Commissioners suggest that beyond recognizing the principle of duality in the Preamble, governments should make efforts to extend the recognition of French and English as the official languages of individual provinces. Ontario in particular, with its large French-speaking population, should proceed promptly to implement official bilingualism. Such a step would set an example for other provinces.
- Scattered French-language communities outside of Quebec face difficulties in developing a French-language working environment. Efforts to solve this problem should be geared towards the development of French-language centres of activity. These centres would vary from province to province, depending on the population and geographic concentration of francophone Canadians. In some areas, the centres would be of an essentially cultural or educational nature, and in other areas, such as in



New Brunswick, they could include a strong economic component.

- Furthermore, this Commission wishes to point out that implementation of language rights has not kept up with the intended policy of bilingualism. We believe that litigation, while generally useful, is not the proper tool for making improvements in this direction, since it is a lengthy and costly method of dealing with these problems.
- Instead, we recommend that stronger support be given to the role of the Commissioner of Official Languages. □

## **Aboriginal Self-Government**

Measures to increase the influence and control exercised by aboriginal people over their social and economic affairs are desirable. Our commitment to this objective is based on the distinctive place of aboriginals in Canadian society as the first peoples of Canada and on the constitutional recognition they now enjoy.

Institutional reforms to enhance the autonomy of aboriginal peoples focus on the idea of self-government. Implications of aboriginal self-government for Canada's overall institutional framework and, in particular, for the three pillars of the Canadian constitutional order, Parliament, federalism and the Charter, have not yet been clarified. Indeed, many important issues have been avoided and should be addressed more squarely. The fundamental changes to our national and provincial institutions that are now being contemplated need broad Canadian understanding if they are to be acceptable in the long run. The pace of discussions, as well as the comprehensiveness of debates in Parliament and the legislatures should reflect this concern.

## **The Northern Territories**

The economic, social and environmental challenges of development in Northern Canada will remain of continuing concern to Canadians. From an institutional perspective, significant questions must be addressed—some of these in the near future.

■ No Canadians—Natives and non-Natives, Northerners and Southerners—can be well served by further delays in the settlement of aboriginal land claims. Final agreements affirming and delimiting aboriginal rights should be actively encouraged. If necessary, deadlines should be established by the parties, and discussions could proceed without reference to the issues of legislative powers, sovereignty and special political status, which could be dealt with subsequently in other settings.

- The Yukon Act and the Northwest Territories Act should be amended to reflect the current practices of responsible government in Yukon and to encourage comparable evolution in the Northwest Territories. In both territories, new formula-



based financial arrangements should be negotiated, to increase the predictability of transfers and to promote genuine responsibility and accountability for expenditures.

- On the basis of federal commitment to the ultimate goal of some form of provincehood in the Northern territories, the governments involved should establish a timetable for the transfer of provincial-type responsibilities in areas such as health, labour relations, inland waters, renewable resources and the institution of criminal proceedings. Additional measures should be taken to:
  - Advance the process of transferring to territorial governments responsibilities for Crown lands that do not bear directly on the national interest and that have not been ceded to the Native people through claims settlements
  - Institute resource-revenue/sharing arrangements comparable to the types of agreements worked out with Nova Scotia and Newfoundland
  - Confirm participation of the territorial governments in federal-provincial forums where matters of direct concern to Northern residents are being discussed. Joint-management arrangements may be valuable transitional procedures.
- Failing an internally generated and ratified agreement on division of the Northwest Territories, the federal government should establish an independent boundary commission to recommend a boundary on the basis of arguments from the two constitutional forums. Subject to the spirit of the Canadian constitutional tradition and the need to recognize the essential quality of Canadian citizenship, the structure of post-division government should be left to the discretion of the respective constitutional forums. □

## Municipalities

Local governments are an enduring and important feature of government in Canada, despite their lack of constitutional status. Variations in approaches to local government in different provinces have permitted sensitivity, dynamism and creativity in the city-province relationship. Existing arrangements have contributed to the development of some of the most liveable cities in the world. Local governments have experienced uncertainty and frustration because of limited policy-making instruments and their relations with provincial and federal governments, but responses to current concerns must begin from the premise that we have been doing something right. Canada's major cities should be provided with the legal, financial and institutional means to fulfill their economic development role. By and large, this involves removing constraints that prevent their involvement in development.

■ Although Commissioners do not recommend changing the constitutional status of local governments, the federal and provincial governments should increase the involvement and responsibility of local authorities. The federal government should review with the provinces the possibility of occasional tri-level conferences; improve communications between municipalities and ministers whose responsibilities affect local interests; assign responsibility to investigate the significance of local concerns in national policy to the proposed Standing Committee for Intergovernmental Relations; and explore opportunities for the decentralization of specific responsibilities, including airports and federal urban properties to federally-appointed local agencies. The use of the delegation amendment, as Commissioners have earlier proposed, may become a means to delegate directly to local governments responsibility for such questions as siting, development and administration of some airports through agreement with the relevant province.

The provincial governments should continue to assess possibilities for assuming financial responsibility for requirements greatly exceeding local revenue sources. Commissioners also recommend that the provinces examine ways to designate a specific portion of income or sales-tax revenues for local government financing. Commissioners believe that revenues to local governments should be increasingly unconditional. □



### Clarence L. Barber

The Commission's Final Report is a long and complex document and I support many of its recommendations. However, in certain areas I do not agree with the tone and thrust of the Report and I outline here my differences in viewpoint and conclusions.

My major concerns arise in connection with the Report's treatment of unemployment and inflation, monetary, fiscal and exchange rate policy and related topics. This is an area economists call macro-economics. The views expressed in the Report in this area may well reflect the views expressed in the Commission's research program. However, the profession is deeply divided on many of these topics and my own views differ substantially from those expressed in the Report.

1. There can be no doubt that the developed world today is suffering severely from the legacy of the extremely tight monetary policies pursued over the period from 1980 to 1982. These policies were based on a belief that the first step towards achieving good economic performance is to bring and keep inflation under control. What the world's central bankers may have failed to understand is that in breaking inflationary expectations they may also have destroyed the world's *real growth expectations*. It may be that far from setting the stage for good economic performance, they have ushered in an era of slow growth and semi-stagnation.

In capitalist enterprise economies, real growth is largely dependent on the strength of private investment spending. Because capital equipment is typically long-lasting, business firms will only carry out these expenditures when they are confident that a growing economy will bring about their utilization. Thus, it is anticipated real growth that is one of the keys to a prosperous high-employment economy. As Keynes so strongly emphasized, the volume of capital spending required to sustain high employment

growth is related to the savings level. In countries where the savings rate is high, such as in West Germany and Japan, a high rate of investment is required if this savings is to be realized in new capital equipment. In its absence, a high rate of savings simply results in a depressed economy and high government deficits, such as we have in Canada today. One of the primary causes of the high level of unemployment that exists in much of the developed world today may well be an excessive level of saving, that is, saving in excess of the amount private business firms are willing to invest. By the same token, the relative prosperity of the U.S. economy may reflect the comparatively low-saving level of the American people.

Private capital spending is weak in many countries today and this undoubtedly reflects uncertainty about future growth. As long as the world economy was growing steadily, as it was throughout the period 1948 to 1973, capital spending was strong. Since then, with much slower growth and more restrictive government policies, capital spending has been weak. In a sense the world economy has lost its growth momentum. It may not be easily restored.

2. The Report stresses the view that there is no long run trade-off between unemployment and inflation. If we attempt to reduce unemployment below a range of 6.5 to 8.0 per cent, it is argued, inflation will gradually accelerate. When unemployment rises above this level, the inflation rate will decline. I find it hard to reconcile this view with the exceptionally low unemployment levels achieved by many countries over the period from 1948 to 1973 with relatively moderate, if gradually increasing, inflation. For example, over this period unemployment rates averaged 1.5 per cent in the Netherlands, 1.6 per cent in Australia and 2.0 per cent in France and West Germany. I doubt that the "no trade-off" conclusion can be held with any certainty.

During the Commission's hearings, at least two economists argued that government policy should give priority to employment over inflation. We should aim, they argued, to reduce unemployment to some relatively low level, say 5 per cent, and if inflation developed along the way, deal with it directly. I think there is considerable merit in this point of view. I don't think we know with any certainty at what unemployment level inflation may become a problem, particularly in the context of stable commodity and energy prices, such as we experienced in the fifties and sixties.

3. The Commission's Report takes the view that some form of incomes policy may be useful on a temporary basis, but argues against any role for incomes policy on a longer-term basis. I disagree. I believe that it would be possible to work out on a co-operative basis between representatives of labour, business and government, a form of incomes policy which could contribute substantially to moderating the inflationary impact of future commodity price shocks.
4. I do not agree with the view that says we should take almost immediate steps to deal with our structural deficit problem. The federal deficit is primarily the result of a major private sector failure, the failure of the private sector to spend on new capital goods as much as it is saving. The



deficit, in turn, has represented a kind of *massive bail-out* to private sector savers, many of them in the higher income brackets. In the absence of the federal government's willingness to incur a deficit, these excess savings would have caused incomes to fall and unemployment to increase, perhaps to unprecedented levels. Canada would soon grow out of its deficit problem if we could stimulate a revival in capital spending and a reduction in saving rates. When we get back to 6 or 7 per cent unemployment, it may be time to adopt tax measures to reduce the deficit. The sooner we get there, the smaller our national debt will be at that time.

5. I view the suggestion that Canada should consider shifting from an income tax system to an expenditure tax system with a great deal of scepticism. If its effect would be to increase Canada's already high savings rate, the result might well be a disaster. I also have grave doubts about its effects on our income distribution.
6. If Canada should negotiate a free trade area agreement with the United States, one of the keys to a successful outcome will be a well-managed exchange rate. Canada's exchange rate policy should be oriented to the country's need for foreign investment as reflected by the difference between private sector capital spending and saving at a high level of employment. When capital spending exceeds saving at high employment levels, the difference can be made up either by means of a government surplus or through a current account deficit. When savings exceed capital spending, a current account surplus may be appropriate. The exchange rate is an appropriate method of adjusting our current account position. To achieve this will require the proper mix of monetary and fiscal policy.

The Bank of Canada could be of substantial assistance to private operators in the exchange market if it published on a regular basis a purchasing power parity value for the Canadian dollar, both as against the U.S. dollar and on a trade weighted basis. The appropriate price for use in such a measure is the implicit price of GNP.

7. Our experience in the early eighties has shown the enormous power that can be exercised by central bankers. In view of this, I believe that some steps should be taken to make the Governor of the Bank of Canada more accountable for his actions.
8. Finally, I must record the view that the Commission's macro-economics research program failed to deal with a number of important economic issues. Thus, there was no serious examination of why the sustained prosperity of the sixties suddenly gave way to stagflation in the early seventies. Nor was there an examination of the basis of the commodity price explosion between 1972 and 1974. Again, the whole question of capital investment which is so essential to the functioning of our economy, received very little attention, even though there has been very little growth in volume of capital spending in the developed world since 1973. Perhaps most important of all, demographers are now predicting that Canada may have a stationary or declining population within 35 years. We know little about how well a private-enterprise economy would perform in such a context. The subject is in need of serious examination as the Commission's Report recommends.

## Albert Breton

### I. Introduction

I hold with considerable conviction to the notion that the mechanisms which discipline and constrain democratic politics, especially democratic politics in federal states, operate with as much force as those which discipline and constrain economic life. That is not a widely shared view, though it is one that is gaining ground. The traditional and more conventional view is that economic mechanisms are so constraining as to be essentially deterministic, while politics, being the exercise of power, can be set in motion or stopped, as it were, at will. In that view, politics is always capricious and beyond rational explanation.

To my knowledge, Commissioners never held to the traditional view of politics, but it is fair to say, I believe, that neither did most of us accept the notion that political mechanisms are as constraining as economic ones. Over the last two and a half years, our views of politics, and especially of democratic politics in federal systems, have moved quite far away from the traditional concept, as readers of the Commission's Report will have been able to witness for themselves. However, in my opinion, the movement has not been sufficiently great. In a way, that is understandable because breaking away from traditional modes of thought, even in the face of dire necessity, is never easy.

The discussion that follows, submitted as a supplementary view to the Commission's Report, is therefore a clarification and an extension of the theory of democratic politics in federal states, a theory which I call the theory of competitive federalism. To put it differently, in what follows, I provide a brief but more extensive analysis of the mechanisms of competitive federalism, indicate some reforms that are necessary if we wish these mechanisms to be more efficient, and draw a few implications of the theory for certain key issues. I insist that there is still much research to be done in this area and many problems to be resolved. However, I believe that what can be defended seriously at this moment should be present in the debates which the Commission's Report will no doubt engender. Hence this document.

The following discussion is divided into four sections. After this Introduction, Section II examines the nature and properties of competitive politics in a federal state. In Section III, I derive implications of that analysis for a number of questions such as those of the economic union, intergovernmental grants, and municipal governments. Section IV concludes my statement.

### II. Theory

It has been and, to a large extent, remains conventional wisdom that the two pillars which define Canada's political institutions—parliamentary government and federalism—lack congruence.<sup>1</sup> That view springs from an *a priori* abstract and formal definition of what constitutes parliamentarism to which is added a no less abstract and formal notion of federalism. The presumed lack of congruence has had enormous influence, not only on the way Canadians think about politics, but also on the way they have condi-

tioned the evolution of their political institutions. It is true that for almost a century and a quarter Canadian parliamentarism and federalism have co-existed in more or less harmonious fashion, but the general tendency—still present in the Commission's Report—to set parliamentary institutions and federalism in opposition or, if not, to view them as separate and unrelated to one another, is at the root of many of our difficulties.

From the beginning of their history as a country to the present, Canadians have reflected on their political institutions with one eye on the United Kingdom and the other on the United States. England was and remains a unitary-parliamentary system, while the U.S. was and is a federal-congressional structure. Hence the following questions: Could a federal-parliamentary system work? Should priority be given to parliamentarism or to federalism? With which one of these two pillars is democracy more closely associated?

I wish to argue that parliamentarism and federalism are congruent; that the issue of having to give priority to either in opting for democracy is a false one; and that it is possible to reform our national and federal institutions in ways that increase their effectiveness, while remaining true to their fundamental genius. A clarification of these issues is necessarily an intellectual exercise, one which requires the selection of a particular language. Being an economist by training and by preference, I feel more at ease formulating and discussing issues, even those outside the traditional frontiers of economics (problems of politics and of society, the traditional domains of political science and of the other social sciences), in the language of that discipline. At the same time, such a strategy makes it easier to draw on the powerful methodology of economics. There is, finally, a third bonus that comes from stating the issues of politics in the language of economics: it makes it easier to go from political to economic real life questions and issues and it makes it easier to formulate a theory of politics that is "compatible" with economic theory. I know from having worked with sociologists and political scientists over many years that the translation from one language to another is a relatively easy matter and that nothing substantive is altered in the process.

Parliamentary (that is, responsible or party) government was not designed. It evolved in response to pressures and influences applied first to monarchs by powerful interests and then, throughout history, to those in office by new emerging centres of power. The dynamics of parliamentarism are appropriately, if somewhat summarily, encapsulated by the expression "elite accommodation".

There is not much competition (or not many "checks and balances": the kinds of behaviours associated with political competition within governments, as distinguished from competition between governments) in such a system. There are, of course, the checks and balances that come from powerful interests, whether economic (like business and labour, though these are not usually of equal strength), religious (churches), intellectual (academics and research organizations), and so on. There are also the checks and balances that come from the Question Period in the House of Commons, from the log-rolling that takes place in caucus and from public opinion. Finally, and very



importantly, there is the competition that originates in the requirement of popular support elicited in contested elections at more or less regular intervals.

All in all, however, competition is quite weak, especially when Cabinet is supported by a good parliamentary majority. The weakness of the checks and balances that come from the lack of separation between the executive and legislative branches is aggravated by the "independence" of the judiciary, an independence which is reflected in the doctrine of "parliamentary supremacy", as contrasted to the doctrine of "judicial review". (I return to this question below (Section III.4), when I discuss the place of the Charter of Rights and Freedoms in Canadian politics.)

A necessary implication of the foregoing is that the preferences, aspirations and opinions of the public, unless they are adopted by the power elites, are not likely to be represented as vividly as they would be in a system in which competition was more vibrant. This overly schematic description of parliamentarism would be even more incomplete if I did not immediately add that the system is susceptible to improvements. The system is capable, as history documents, of absorbing further checks and balances, while at the same time remaining faithful to its own virtues and genius.

The Report contains recommendations which go in the direction of improving competition, such as those aimed at removing budget secrecy and at reforming the Senate, recommendations that I support, although I will have more to say on Senate reform below. But one could go further. I would suggest that in addition *serious consideration should be given to finding ways of reducing party discipline in the House of Commons and, to the extent that it exists, in Parliamentary Committees as well, for all matters, except budgetary ones*. If that was done—slowly, but deliberately—the power of elected representatives would be increased, their ability to voice the opinions of their constituents would be enhanced, and the capacity of constituents to influence governments would be augmented.

Responsible or party government in unitary states, however fine-tuned to better reflect the preferences of citizens, remains a weak mechanism in the performance of the task I have just noted. But when responsible government is married to federalism, that job is done much more effectively. I must hasten to add that some marriages are more successful than others and that some federal structures are better designed than others. I will explore these issues in the pages that follow and indicate what I believe are the ingredients of a good federalism and of a good marriage of federalism with party government. However, the central proposition holds: parliamentary government combined with federalism give the citizens of a country a more effective set of institutions for reflecting their will, preferences and aspirations. Responsible government is democratic government; but responsible government plus federalism is extended democracy, simply because there is more competition.

I must, therefore, address two preliminary questions: How does federalism introduce more competition in any system of government, more particularly, in a system of responsible government? Is competition a "good" thing, that is, something we should want in our political institutions? I will seek to answer



these two questions in Sections II.2 and II.4 below. As an introduction to that discussion – and in recognition of the fact that competition is so central to my view of politics and of democracy – I must devote some space to clarification of the meaning I give to the word competition.

### 1. Competition

The development of mainline economic thought in the Anglo-American tradition – by any measure the overwhelming tradition – has systematically restricted the notion of competition to price competition. This tradition has come to focus on the conditions under which this kind of competition leads to (Pareto) efficiency, that is, to that state in which no one individual can be made better off without someone else being made worse off. Significantly, this neo-classical tradition has not associated any particular behaviours or activities with its definition of competition.

Since the conditions under which competition is optimal in one sense or another will be examined later on for the case of competitive federalism, it may be worth noting that it is only in the case of price competition that the conditions are known under which competition is Pareto optimal. In other words, under certain conditions, Adam Smith's "invisible hand" allocates resources efficiently for the case of price competition. Although there has been much discussion in the literature on advertising and quality competition, and less, though still a respectable amount, on competition involving research and development expenditures, innovation and technology, it is not known if these various forms of competition are socially efficient. Until recently, the weight of opinion in the profession would have been, I believe, that they were not. Things have been changing in recent years, but no consensus, not even a minimal one, has emerged.

I mention this to underscore that even if it is not possible to specify all the conditions – those that are necessary as well as those that are sufficient – under which political competition in a federal state is optimal, that does not constitute a basis for rejecting such competition, any more than our inability to specify necessary and sufficient conditions for economic competition to be efficient is a satisfactory ground for rejecting market organization.

Price competition must be contrasted to other kinds of competition, which have from time to time retained the attention of economists and others. There are a number of strands in the literature associated with such labels as "working competition" and "countervailing power". One of the more important of these is the notion of *entrepreneurial competition*, sometimes also called Austrian or Schumpeterian competition. In the early 1900's an important number of (to become distinguished) Austrian economists (notably Joseph Schumpeter, Ludwig Mises and Frederick Hayek), seeking to come to grips with the crucial Marxian question of the dynamics of capitalism, proposed theories of economic development in which that particular notion of competition played a central role.

In the words of Schumpeter, one of the ablest analysts of this kind of competition:

*In capitalist reality as distinguished from its textbook picture, it is not that kind of competition (price competition) which counts but the competition from the new commodity, the new technology, the new source of supply, the new type of organization . . . competition which commands a decisive cost or quality advantage and which strikes not at the margins of the profits and the outputs of the existing firms but at their foundations and their very lives. This kind of competition is as much more effective than the other as a bombardment is in comparison with forcing a door, so much more important that it becomes a matter of comparative indifference whether competition in the ordinary sense functions more or less promptly; the powerful lever that in the long run expands output and brings down prices is in any case made of other stuff.<sup>2</sup>*

Notwithstanding the fact that barriers are sometimes erected to soften the impact of entrepreneurial competition, one must acknowledge that in seeking to understand the economic factors that determine how resources are allocated, as well as the forces that have shaped the broad development of capitalism, the Austrians' notion of competition is more useful than that of mainline neo-classical theory.<sup>3</sup>

It is not an accident that the extension of the analytical tools of economics to politics was initiated by Schumpeter (although Niccolo Machiavelli and John Stuart Mill, among others, had anticipated the possibility): it was a natural outgrowth of his work on entrepreneurial competition. Politicians, in that view, are entrepreneurs who compete for resources by introducing new politics, by developing new forms of organization, by heralding new unifying symbols, by structuring a new social consensus, etcetera. Recent writers have characterized entrepreneurial competition as "alertness to opportunities".<sup>4</sup> If that is a good definition of entrepreneurship, it cannot be limited to the realm of economics, but extends naturally to politics and to other areas of life. To be sure, the "*modus operandi* of competition" (to use a Schumpeterian expression) will vary between business and political entrepreneurs, but their behaviour will have enough in common to be called competitive.

Having said that, it must be recognized that not much is known about competitive processes. Earlier, in referring to intra-governmental competition—the competition between political parties, between the executive, legislative and judicial branches of government (when such competition exists), between the various departments and bureaus that constitute the bureaucracy of a particular governmental unit, such as that of Quebec or Saskatchewan—I used the American expression "checks and balances". These words correspond to more or less specific and precise behaviour and are useful in characterizing that kind of competition. In his study of *American Capitalism*,<sup>5</sup> Galbraith used the evocative term "countervailing power" in an effort to describe a particular process of competition. Recently, Nelson and Winter<sup>6</sup> have sought to model entrepreneurial competition in terms of two activities: "do research" or "do imitation". A friend of mine, having read an earlier draft of this statement, suggested that the behaviour associated with federal-provincial competition was "complement and countervail". To illustrate, if the federal government chose to subsidize post-secondary education by giving money directly to students instead of giving it to provincial governments, these latter could "complement" by targeting their

spending on education more closely to their own priorities, or "countervail" by taking the money away from students.

This area of study is in its infancy. I cannot therefore associate particular competitive processes with the various kinds of entrepreneurial competition that I will discuss below. Because it is appropriate, I use the words "checks and balances" for intra-governmental competition; otherwise, for politics as for economics, I use the word competition, having in mind entrepreneurial competition, but no particular behavioural process.

## *2. Federalism*

At its simplest, that is, before introducing real world complications into the picture—a task to be undertaken later—a federal state can be formally defined as a type of political organization in which there are at least two levels of jurisdiction—in Canada, national and provincial—between which the entire set of constitutional powers is divided. The assignment of these powers between the governmental levels is not made by one level alone. That distinguishes federalism from confederalism, a system in which the assignment of powers is made by the provinces alone, and from unitary states, structures in which powers are assigned by senior governments acting in isolation. According to that definition, Canada is and has been a federation and never a confederation. The Canadian provinces, on the other hand, in their relationship with their municipalities, are unitary states.

The division of powers and the mode through which it is effected define federalism well, albeit in a way that is too formal to be very useful in understanding how such a system actually works. From that point of view, what is much more important are the implications of any division of powers for the operations of, and relationships between, the governments of the federation, all of which are responsible governments. The central and most important implication is that in the search for popular support—something that is as needed for the effectiveness of governing parties as revenue is essential for the effectiveness of business firms—the governments of a federation will find themselves competing with each other. Federalism thus adds more competition to that already present in responsible or party government.

One point needs emphasis. Political competition is not something that politicians choose or want, whatever their commitment to federalism and, more broadly, to liberty and to democracy. In that respect, they are exactly like business entrepreneurs who do not want competition either. Competition arises from the necessity to respond to the actions of others; it is "forced" on people by the environment. One does not even have to be aware that one is competing to be competitive. A business firm that adopts a new technology to reduce its costs is acting competitively; one that advertises and places some of its output on sale is acting in a competitive fashion; someone who supports a particular social movement or a particular lobby is competing; as is the politician who seeks harmony with provincial governments by removing the contentious questions from the agenda of federal-provincial encounters.

There is so much mystification about this that I must dwell on two corollary points, at the risk of seeming to insist on the obvious for those who



have seen their way clear on the subject. First, there is the whole bag of issues that are best summarized by the words "co-operative federalism". What is co-operative federalism and how is it to be distinguished from other types of federalisms? To my knowledge, the expression has never been formally defined. That may not be a lacuna because we all have, from practical experience and observation, a good intuitive idea of what is meant by these two words. Two or more persons working together to lift a heavy object; two or more persons engaged in a search for something lost; two or more persons removing snow from a road; these are examples of the kind of behaviour we have in mind when we think of co-operation. In other words, someone helping someone else achieve a certain goal or objective.

Co-operative federalism by analogy would exist if all the politicians of a federation worked together to achieve some collective end. Instead of working on their own for their citizens, governments would work together for the betterment of all "the people". Before examining what is meant by co-operative federalism in more detail, I would like the reader to ask him or herself why it is that we do not, as societies, organize the search for justice on a co-operative basis, but instead set defence against prosecuting attorneys in courts of law? Why do we not organize the working of party politics on a co-operative basis, but instead pit political parties against each other in grand electoral contests? Why do we not organize the search for truth on a co-operative basis, but instead require scholars and scientists to compete for research funds and for limited space in research publications? And, finally – though the list could go on – why do we not organize the production of goods and services on a co-operative basis, but instead implement laws that make co-operation an offence?

These examples underline the fact that in some areas, co-operation is *not* an efficient principle of social organization and that it is less efficient than competition, essentially because co-operation can easily degenerate into collusion, conspiracy and connivance and that this is not necessarily good! In the case of federalism, would co-operation be a better principle of social organization than competition? I will only begin to answer this question here; the answer will be completed in Section II.5. To answer the question, it must be recognized that co-operative federalism is aimed at removing the competition which is a natural by-product of federal organization. Consequently, to be able to answer the question, it is necessary to know whether competition is a "good" feature of political organizations. I do not address this issue before Section II.4.

I have posed the question here, however, because I wish to stress that the notion of co-operative federalism is part and parcel of the politics of "élite accommodation" which plays such an important role in the dynamics of party governments. Indeed, in practice, co-operative federalism is nothing but executive federalism. This has been defined by Smiley "as the relations between elected and appointed officials of the two orders of government in federal-provincial interactions and among the executives of the provinces in interprovincial interactions".<sup>7</sup> I will argue later that there is a place for a limited executive federalism. The executive federalism contemplated by co-operative federalists, however, effectively extends to all the areas of federal-



provincial contact. It transfers to executive and bureaucratic bargaining and negotiation what properly belongs to the realm of the political.

Co-operative federalism does not necessarily eliminate federalist competition, but by moving it into executive and bureaucratic offices and corridors, it mutes its public manifestations and its effectiveness. The heart of co-operative federalism is secret deals, not the stuff on which a lively democracy thrives! There are other implications of the doctrine of co-operative federalism; I mention two.

A first is a by-product of drumming into the psyche of Canadians the belief that federalism is or should be co-operative. Once that is achieved, it provides a fruitful background for the arguments of those, sometimes in one province, sometimes in another, who wish to promote and foster separatism. Indeed, a process that is inherently competitive, even if it is called co-operative, is bound to throw up incidents which separatists—themselves competitive individuals—will use to argue that “the system does not work”, because on a particular matter the politicians of a province have been rebuffed or have simply lost in the competitive game. It would be relatively easy to document that the rhetoric of Canadian separatists is often based on the notion that federalism is not as co-operative as one had been led to believe it should be. I cannot undertake that documentation task here. I simply note that if Canadians had been helped to understand that federalist politics, like all politics, is inherently competitive, the propaganda of separatism would have fallen on more barren ground.

A second implication of the doctrine of co-operative federalism relates to the condemnation, by those who adhere to it, of unilateralism, that is, of independent action by any one government of the federation. Unilateral action by one government is, of course, a derogation from co-operation, since when one is acting alone one is not co-operating. Consequently, those who espouse co-operative federalism decry unilateral action on the part of any government in the federation. Although in principle, the condemnation applies to all, in practice it strikes much harder at the federal government, simply because the provinces, if they want to act in unison, have to come to an agreement—something that is not easy to do for essentially competitive entities. To put it differently, in the normal course of affairs, the central government is likely to act unilaterally more often than the provinces, to the extent that these wish to act as one, because the costs of co-ordination are positive. A condemnation of unilateralism, if enforced, would therefore affect the central government more than the provinces.

Co-operative federalism, because it proscribes unilateral action, is therefore a disguised ploy to shackle the federal government, to prevent it from addressing the problems it alone can resolve and is constitutionally responsible for resolving. Indeed, condemning federal unilateralism is condemning the federal government for acting constitutionally! This is so true that if one takes the trouble to go behind the language of co-operative federalism, to the reality of the arguments which it seeks to convey, one discovers either confederalism or a conservative view which seeks to reduce the role of the federal government and, indeed, of all governments in society.

In concluding this argument, I note that the condemnation of unilateralism is also a denial that the division of powers between orders of government is essential to federalism. That indeed is the crux of the matter. Co-operative federalism, if it came to pass, would deny federalism itself. Those who seek co-operative federalism and labour for its realization, seek and labour for a unitary state, disguised in the trappings of federalism, but from which competition would have been reduced to a minimum or even eliminated.

The second corollary point related to the mystification surrounding the notion of political competition pertains to the language of competition and of federalism. Competition in the marketplace, in courtrooms, in parliaments, on hustings, in university seminars, and wherever it takes place is sometimes smooth, so smooth that one could be led into believing that it is not there. But at other times, it is rough, so rough that outsiders are often at a loss in trying to understand why so much energy and effort are displayed, why opponents are characterized in such vile fashion, why the parties become uncouth and impolite in the process of competing. In describing this second circumstance, it is not uncommon for the outsiders, who would have no problem with “well-behaved” competition, to describe the situation in terms of conflict, rancour, combat, suspicion, disharmony, and so on, and to attach to these expressions a negative connotation. The stage is then set for appeals to co-operation and for a rhetoric that praises the virtues of co-operative federalism.

Words have emotional content. For that reason, debates and disagreements are sometimes resolved by using a different language. It is important, however, that the change in vocabulary be only that, not the occasion for unnecessary changes in institutions. When competition is acrimonious one may wish to reduce its acrimoniousness; that can be a legitimate objective. But it is not because we choose to relabel a competitive process by some other name, such as conflict, disharmony, or rivalry, that we will have improved things. Indeed, if relabelling leads to the search for unwarranted institutional changes, we may have worsened the situation. Prosecuting and defence attorneys may be uncouth and antagonistic to each other; things could possibly be better if such behaviour did not exist, but surely justice would not be well served, if, to remove such behaviour, courtroom procedures were transformed from competitive into co-operative ones!

Many a time I have been struck by the fact that those who resist the notion of competition and its reality in fact take offence at the language of competition. The question of how a language can be made more genteel and gracious is an interesting and difficult one. It may be possible to have a genteel and graceful competitive federalism, but whether it is or not has little bearing on whether competitive federalism is desirable or not.

Before moving on to a discussion of the costs and benefits of political competition and to an overall evaluation of its worth, I must deal with two subjects that are likely to be of most interest to specialists of co-operative federalism, but which must be cleared up if what I call competitive federalism is to be understood. For that reason, I encourage even those who are not co-operative federalists to stay with me through the next section.

### 3. Not Co-operation and Not Anarchy

The "proof" that co-operation in federations is beneficial has traditionally been based on sentimentalism and romanticism. Many people do not mind this, but scholars have generally sought to extract themselves from such clutches; consequently they have searched for a rigorous theory of federalism that would provide them with the desired proof. One of the theories used by these scholars derives from an application to federalism of the theory of games, specifically an application of the theory of the non-co-operative game known as "prisoner's dilemma".<sup>8</sup>

That theory is a representation of a situation in which non-co-operative behaviour on the part of individuals leads to an outcome that is inefficient, in that if the individuals could enter into a pre-game binding agreement to co-operate, they would choose another outcome than the one that obtains in the absence of co-operation. In the words of Luce and Raiffa, the prisoner's dilemma game can be characterized as follows:

*Two suspects are taken into custody and separated. This district attorney is certain that they are guilty of a specific crime, but he does not have adequate evidence to convict them at a trial. He points out to each prisoner that each has two alternatives: to confess to the crime the police are sure they have done, or not to confess. If they both do not confess, then the district attorney states he will book them on some very minor trumped-up charge such as petty larceny and illegal possession of a weapon, and they will both receive minor punishment; if they both confess they will be prosecuted, but he will recommend less than the most severe sentence; but if one confesses and the other does not, then the confessor will receive lenient treatment for turning state's evidence whereas the latter will get "the book" slapped at him.*<sup>9</sup>

If they could co-operate, the two suspects would decide not to confess. But being separated and held incommunicado, they will both confess, each to "receive lenient treatment", but both will get "the book". This serves to show that non-co-operative behaviour is inefficient.

The question is whether the prisoner's dilemma game is an appropriate model to think about and to analyse federalism. In other words, will the co-operative behaviour which would lead to efficient results in the prisoner's dilemma game also lead to efficient results in the case of federalism? The answer must be a resounding no. The prisoner's dilemma game is simply not an appropriate model for federalism. Why? For two reasons.

The first and the most obvious is that the governments of federal states are not kept incommunicado. In Canada, with close to one thousand federal-provincial meetings per year, it is hard to assume that the parties are separated.

The second reason for the inapplicability of the prisoner's dilemma model to federalism is more basic. As the Luce and Raiffa narration makes clear, there are no gains from competition in a prisoner's dilemma model: there are only gains from co-operation. To understand the full burden of this point, assume that the parties in the game are not criminal suspects, but ordinary



oligopolists. Would we also conclude that they should co-operate (collude?) to improve their position? The logic of the prisoner's dilemma model would seem to push us in that direction. In this "oligopolist's dilemma" game, it is our instinct as economists – for those of us who are – which keeps us in check; we know that the logic of co-operation appears correct only because consumers are left out of the game. Once their presence is acknowledged, it is easy to understand that competition is for their benefit. We must conclude that co-operation benefits the oligopolists, while competition serves consumers. That is why the prisoner's dilemma model cannot be used to analyse oligopolies.

It is essentially for the same reason that the prisoner's dilemma game cannot be used to analyse federalism. In this case, citizens are left out of the picture. They are the ones who benefit from competition. If that is the case, how are thoughtful scholars led to adopt a completely inappropriate model to analyse federalism? The answer must be that underlying the use of the prisoner's dilemma model is the (tacit) assumption that provincial governments perfectly embody the interests of the people of their respective provinces. There is no role for competition because each provincial government is assumed to be serving its people perfectly! All models of co-operative federalism in fact make the same assumption.

We are therefore back to competition and to competitive federalism. But competitive behaviour is not unconstrained or anarchical behaviour; indeed competition would not survive, still less be efficient, if such behaviour was the rule. In fact competitive behaviour is restrained and disciplined behaviour.

One thing that can discipline competition is legally enforced property rights. One of the best definitions of these is that provided by Dales. I quote:

*In everyday conversation we usually speak of "property" rather than "property rights", but the contraction is misleading if it tends to make us think of property as things rather than as rights, or of ownership as outright rather than circumscribed . . . When you own a car, you own a set of legally defined rights to use the vehicle in certain ways and not in others; you may not use it as a personal weapon, for example, nor may you leave it unattended beside a fire hydrant. Among the most important rights you do have are the right to prevent others from using the vehicle, except with your permission and on your terms, and the right to divest yourself of your ownership rights in the vehicle by selling them to someone else. We may say, then, that ownership always consists of (1) a set of rights to use property in certain ways (and a set of negative rights or prohibitions, that prevent its use in other ways); (2) a right to prevent others from exercising those rights, or to set the terms on which others may exercise them; and (3) a right to sell your property rights.<sup>10</sup>*

Property rights extend beyond physical objects like cars, to things such as bonds, shares of stock and money. They extend to one's time (which can be sold as labour or consumed as leisure); it is important that they extend to roads, canals, air waves, and, as the Law of the Sea Conference made abundantly clear, especially during the last four or five years of negotiations, to the oceans and the seabeds.



It is important to stress that property rights may or may not be related to private property. Indeed, property rights can be vested in individuals, in groups (such as corporations) and in governments or other public bodies. That is, property rights can be private or collective. On August 8, 1983, *The Globe and Mail* reported on a debate in the Department of External Affairs in Ottawa on whether the Antarctic should be considered the "common heritage of mankind" or be assigned to "a select group of nations that already have scientific and commercial interests in Antarctica" (p. 9); that is a debate about property rights.

But sometimes legally-enforced property rights do not exist. That may result from failures in legislation or in law enforcement, but it may also derive from intrinsic problems as in the case of public goods, intellectual property, common property, and so on. In such instances, substitutes have to be found if they do not "spontaneously" arise; otherwise competition will be inefficient. I cannot here analyse all the — sometimes nearly perfect, sometimes much less than perfect — substitutes for legally-enforced property rights. I suggest two which I believe have a special role in disciplining competition in federal states. The first is trust, which, even if it is important, cannot be legislated and is less susceptible to improvement through institutional reform. I will, consequently, just mention it. The second is "monitoring",<sup>11</sup> which I introduce here, but will discuss at length below, in Sections II.8 and II.9.

Trust can be a substitute for property rights. It need not, obviously, be a perfect substitute for them, in the sense that both trust and legally-enforced property rights can co-exist. Trust is a substitute for property rights if the competing parties are confident (i.e. trust, believe) that each will abide by the rules of the game. The parties compete, but there are certain behaviours and activities which are proscribed — possibly only through tacit understanding — and to which neither party will resort.

Another substitute for property rights (and for trust) is "monitoring". The function of property rights is to define penalty-reward structures which, if they are efficient, ensure that one party does not, through his or her actions, impose costs on others that are out of proportion to the benefits he or she derives for these actions. A "monitor" can obviously do this. A "monitor" can be a person, but it can also be an institution. I distinguish below between horizontal and vertical competition. The first refers to interprovincial competition, while the second relates to federal-provincial competition. I will argue that the federal government and a number of "self-regulating" federal institutions are natural "monitors" of horizontal competition. I will also argue that the natural "monitor" of vertical competition is a reformed Senate. Before I can do justice to that problem, there are a number of issues that must be cleared up.

One point needs to be emphasized immediately, however. Property rights are never perfect, trust is never absolute, and "monitors" as well as "monitoring" devices are all of human fabrication. Because of this, competition is never absolutely efficient. It will sometimes attain its maximum efficiency, which may be far from the ideal; at other times it will even attain less than that maximum. That is true in politics, as it is in economics.

There is no doubt that at times competition in the Canadian federation has been less than efficient, possibly even destructive. The problems of economic union, which are at the centre of the Royal Commission's mandate, raise this question with urgency. Are certain policies adopted by governments in the pursuit of local objectives, but which impede the free flow of resources, inefficient competitive policies? I address this and other like questions below.

It is important, however, when faced with a situation of inefficient competition not to conclude that competition is always inefficient. When such situations arise, we must turn our attention to the property rights, the trust and the "monitoring" which are supposed to guarantee the efficiency of competition, and seek ways to strengthen all of them or any one of them. I try to do this in the pages that follow.

#### *4. Checks and Balances*

The remainder of Section II deals with the benefits and the costs of competition: this subsection with intra-governmental competition and the next five with intergovernmental competition. In this section I ask and seek to answer the following question: Are checks and balances a "good" thing? There are at least two different ways of answering this question. One which is more formal, in that it focuses on structural features of political institutions, and a second one which is more behavioural in that it concentrates on the mechanisms and responses which characterize institutions marked by checks and balances, compared to those which are not. Because there is an element of truth in both lines of inquiry—although it will soon transpire that I accord more importance to the second—I will look at each in turn.

As the words checks and balances indicate, a system in which they play an important role is one in which more barriers have to be opened, more hoops jumped, more obstacles circumvented and more impediments negotiated in an effort to obtain the passage and implementation of a piece of legislation, than would be the case in a system in which they played a lesser role. From a static short-run point of view, checks and balances reduce the legislative and executive efficiency—defined as the ratio of laws passed and implemented to the time and effort put in passing them—of political institutions.

Looked at from another point of view, the reduced efficiency of law-making bodies is nothing but the greater popular control over the exercise of political power which is automatically achieved by the fact that checks and balances exist. In terms of this formal way of looking at the problem, one's view about the costs and benefits of checks and balances—and about whether they are "good"—centres one's conception of the role and importance of political power for the conduct of public affairs on the one hand, and on the extent to which that power should be controlled for the greater blossoming of individual and collective liberty on the other.

The virtues of efficiency versus control are not as easily described as the above formulation may inadvertently signal. Indeed, in some instances, liberty is guaranteed by a swift and unequivocal exercise of political power. For this reason, constitutions which recognize that there is a genuine trade-off between political power and liberty nonetheless acknowledge that that trade-

off is not always “well-behaved”—that, in other words, it is sometimes subject to exceptions—by vesting in constitutions clauses which permit the rapid employment of power in emergency situations, such as that pertaining to “peace, order and good Government” in the Canadian Constitution.

From a structural point of view, parliamentary systems, such as the Canadian system, are characterized by far fewer checks and balances than are congressional systems such as the American. Thus from a short-run static or formal point of view, the Canadian political system, if we disregard its federal dimension, would seem to be more efficient at “making laws” than the American system, again neglecting the federal dimension. Or to put the point differently, political power is more controlled in the American political system than in the Canadian system.

However, the effective differences in the law-making efficiency of the two systems are not as great as one would have to conclude from an analysis of their structural characteristics. Should one impute the similarities in the two systems to characteristics of federalism or should one look elsewhere? There is little doubt that federalism has an important role to play in explaining the *de facto* similarity in the law-making performance of the two systems, but the second aspect of checks and balances that I noted at the beginning of the section is also of great importance.

This second aspect pertains to the dynamics of checks and balances. A system which places barriers and other impediments to the passage of legislation at the same time and in the very fact of forcing people to deal with the barriers and with the other impediments, stimulates discussion and debate on the matters to be legislated. It is as if the items remained longer on the agenda and consequently attracted the interest—voiced approval or disapproval—of a larger number of persons.

The people who develop an interest in discussing and debating matters kept on the agenda by the checks and balances are not only those who have a professional or para-professional concern for the matter—politicians, bureaucrats, lobbyists and others like them—but members of the general public, including academics, free-lance intellectuals, writers, social critics, organized groups and others. The greater involvement in public affairs which checks and balances generate will, in general, not be limited to haphazard intervention, but will stimulate the publication of magazines and other periodicals intensely concerned with the evolution of policy. It will, in other words, stimulate organized interest in public affairs.

Strong checks and balances will also mean that those citizens who get involved in public discussions and debates will want to engage in meaningful participation and consequently will seek to acquire more information on public affairs than professionals would of themselves freely choose to make available. The pressures for more information imply that over the longer term, the presence of more checks and balances leads to less secretive political institutions.

As a consequence, checks and balances, by raising the level of political involvement on the part of citizens, increase the legitimacy of the political process. Checks and balances still act to control the exercise of political power, but because, from a dynamic point of view, they raise the legitimacy



of that political power, they make its exercise more efficient. The dynamic longer-term effects of checks and balances partially or even completely reverse the static shorter-term effects.

I wish to emphasize that the foregoing argument about dynamic effects reversing the static ones does *not* mean that law-making will be more rapid in systems with more checks and balances compared to those with fewer. The efficiency of checks and balances must be sought elsewhere. I mention two possible areas.

✓ In a system with more checks and balances there should be fewer policy reversals over time. That is, changes in governments as a result of elections should produce fewer returns to the *status quo ante*. It is possible to argue, for example, that the cycle of nationalization and de-nationalization of certain industries which has taken place in Britain would not have happened if the British parliamentary system had had more checks and balances. This is a blatant case; the reader can surely provide some possibly less blatant but still spectacular cases in Canada.

A second area of increased efficiency of checks and balances due to the long-term effects over-turning the short-term one pertains to social consensus. More social consensus means that the difference between majorities and minorities have less saliency. As a consequence, other things being equal, it is easier to enforce laws. (The "other things being equal" relates to the desire or will of the population to have laws enforced, as revealed, among other things, in the amount of resources they choose to allocate to that task.)

The dominance of long-term over short-term effects is important. It provides part of the basis for the recommendation I made earlier for a reduction of party discipline in the House of Commons and in Parliamentary Committees for all non-budgetary matters. The reduction of party discipline would slow down the passage of legislation but, in the longer run, the benefits of this slow-down will be a more politically involved citizenry and policies and programs that are more broadly accepted by citizens. It is for this reason that I support the recommendations of the Commission's Report that are aimed at reducing and even eliminating the secrecy surrounding the budgetary process. I also support, for the same reason, the establishment of a permanent Economic Policy Committee of the House of Commons, which would hold annual pre-budget hearings and whose proceedings would be televised. In short, I support both recommendations because they increase checks and balances.

I deal with Senate reform later. I simply note here that any reform which increased the legitimacy of the Senate would automatically increase its ability to check and balance. Again, that would sometimes slow down the passage of legislation, but in the long run, through the process described above, it would increase the involvement and the participation of Canadians in public affairs. That must be deemed a net benefit. Checks and balances within our national institutions, as long as they are designed with care and prudence, are therefore of overall benefit.

What about the competition that is introduced in the political system through the medium of federalism? Is it also of overall benefit? That is the question to which I now turn. To proceed with the analysis, I distinguish



between the competition which organizes the relationship of federal and provincial governments and that which structures the relationships of the provinces with each other. I call the first vertical competition and the second horizontal competition. I examine each of these under different aspects in the next five sections.

### 5. Division of Powers

Competition plays no role in the conventional approaches to federalism, whether these approaches derive from political science, law or economics. Competition is (unwittingly) removed by two assumptions which are both, in my view, unacceptable. The first of these, which will occupy my attention in this section, rests on a confusion between what could be called the *de jure* and the *de facto* division of powers. The second assumption, which I will analyse in Section II.7, relates to what may be called the territorial basis of interests and, hence, of community: the idea that federal states rest or are based on territorially more or less well-defined communities.

There can be little doubt that from a *legal-constitutional* point of view, an optimal assignment of powers is one in which the degree of concurrency, of overlap or of joint occupation of any one power has been reduced to a minimum. Constitutions that embody such an assignment are sometimes said to be the hallmark of "classical federalism". The need for the smallest possible degree of *de jure* concurrency does not originate in a desire for neatness, nor is it a relic inherited from the long-dying nineteenth century conception of political sovereignty enshrined in early definitions of federal countries as states constituted of two "sovereign and independent orders of government".

Instead, a minimal degree of *de jure* concurrency is required by the necessity of "judicial accountability". Ultimately, when things come to a crunch, a court must be able to decide whether a government has the authority to implement a particular policy or not; whether it is acting *intra vires* or *ultra vires*. If there is no "compartmentalization" within which legal authority can be exercised, there will be no basis on which a court can make decisions and, in fact, no meaning to a juridical division of powers. I will insist below that courts, and in particular the Supreme Court, are often called upon to act as "monitors" of federalist competition and to insure that competition is efficient. They cannot play that role unless the degree of *de jure* concurrency is small, for if it is significant, the courts would find it harder to impute responsibility to one or the other governments involved.<sup>12</sup> The fundamental democratic principle that parliament must be accountable becomes meaningless.

That much seems incontrovertible. But at the political or *de facto* level things are different: there, concurrency is the rule. We have to be clear about what that means if we do not want to become victims of the confusion between *de jure* and *de facto* concurrency which pervades the literature and which is used to argue against competitive federalism.

Before examining why an air-tight *de facto* division of powers is not possible in principle, let me illustrate the nature of the problem with a few

examples. Consider the (welfare) economist's standard classification of powers into allocation, redistribution and stabilization, to which may or may not be added a revenue power, depending on how the first three have been defined. Now assume that for whatever reason, the redistribution and stabilization powers *de jure* are assigned to the federal jurisdictional level while allocation is somehow, again *de jure*, divided between the federal and provincial levels. If the division of the allocation powers is air-tight, we have a "classical" assignment of powers.

Now suppose that some provincial governments decide to use some of their allocation powers—those in areas such as education, transportation, or urban land use—in ways that fully respect the Constitution, but which change the distribution of income in a direction that the federal government does not like, so that that government feels obliged to implement policies of its own to "re-establish" the distribution of income it desires. Would not the air-tight separation of powers have *de facto* been broken? I believe so, since the federal government's actions are now governed by decisions taken at the provincial level.

Consider a second case. Suppose that to stabilize the economy the federal government increases or reduces some or all of the expenditures resulting from policies implemented under the allocation powers juridically assigned to it in a way that is respectful of classical federalism's dictum regarding concurrency. But, from a behavioural point of view, will it still be respectful of that division? Not if there is any relationship between federal and provincial policies, because if there is, decisions by the federal government will impact on the provinces, and, what is even worse, not equally.

We can now turn to general principles. As I hope the examples have made clear, the various day-to-day policies which can be implemented by the governments of a federation under the powers which have juridically been assigned to them, stand in all sorts of relationships to each other. In the way citizens look at these policies (formally, in the utility functions of citizens), some will be independent, while many others will be either substitutes or complements to each other. On the other side of decision making, in the way politicians and bureaucrats look at policies (formally at the technical level of "production" and implementation), policies will be independent, substitutes or complements, but not necessarily in the same way as they are for citizens.

That is the reason why *de facto* all powers tend to be concurrent. It is important to be clear about what that means and what it does not mean. It does not mean that both orders of government will, at the same time, legislate in the same policy area. It simply means that governments at the two jurisdictional levels will, in general, be legislating in policy areas that are closely related to each other. As noted, that "closeness" has two possible sources: the preferences of citizens and the technical properties of production and implementation technologies. In other words, policies can be related to each other in one fashion or another because of the way citizens value them; or they can be related, because their production and implementation connects them to each other. These connections create the *de facto* concurrency.

Once this is acknowledged, it is impossible not to recognize at the same time that governments at different jurisdictional levels will be in competition

with each other. The competition originates in the desire of governments to obtain the support of citizens by providing them with the policies they want. Since these policies will not have the same relationships in the preferences of citizens and in the technical structure of the implementation technologies that they have in constitutional documents, governments at one level will be implementing policies which are substitutes or complements to policies that are the responsibility of governments at another level, hence the competition.

Does this *de facto* concurrency – the outcome of characteristics of policies and of the political process – imply that constitutions do not matter? That the juridical division of powers is meaningless? That any *de jure* division of powers would be equivalent to any other? The answer to these questions must be an emphatic no. There are better and there are worse *de jure* divisions of powers. There is a view – the outcome of the confusion between *de jure* and *de facto* concurrency – which holds that the best constitutional assignment of powers is the one which leads to the smallest degree of competition possible. The bookshelves of Canada's libraries are littered with constitutional blueprints aimed at working out a division of powers that would eliminate *de facto* concurrency, so as to eliminate federalist competition.

Such constitutional blueprints are impossible to design for the only reason that people and the environment change. A blueprint that succeeded in assigning powers so as to suppress competition today would be obsolete, in that respect, tomorrow. What then is the optimal constitutional division of powers? To answer that question would take me too far afield. In addition, it is not, for the issues that concern me here, of prime importance; consequently I skip over the question.<sup>13</sup>

## 6. Executive Federalism

The discussion of the last section clearly acknowledges the existence of interdependence. Indeed, it associates interdependence with two prime sources: the preferences of citizens and the characteristics of "production and implementation" processes. The question I address here is whether that interdependence calls for federal-provincial co-operation and co-ordination.

The question is easy to answer. To the extent that interdependence originates in the properties of the preferences (utility functions) of citizens, there is no need for formal institutionalized co-ordination. Indeed, one should rely on vertical competition between governments at different levels to deal with the co-ordination problem. The rule is the same as for market co-ordination. That is one reason why in its day-to-day operations federalism tends to be "messy", but one should keep in mind that it is this messiness which is the secret of its efficiency!

When we turn to the interdependence on the production and implementation side, there is a strong case for formal federal-provincial co-ordination. That is the limited case for Executive Federalism. The co-ordination activities are embodied in federal-provincial committees which involve various levels and various departments of governments, all of which seek to find better ways to "produce" and implement the policies which have been decided upon and designed by the political arm of governments.



There is a real temptation, reinforced by the internal logic of parliamentary government, to extend executive federalism beyond production and implementation questions to the elaboration, formulation and design of policies. If the temptation is not resisted—and it must be acknowledged that many times in the past it has not been—Executive Federalism serves to reduce the beneficial effects of competition.

For this reason, I believe it is important that *federal-provincial consultation on virtually all matters follows, not precedes, debates in the House of Commons and in provincial parliaments. Parliamentary debates should extend to a specification of the areas that could be reasonably co-ordinated and those which should not be.* This kind of sorting is currently undertaken at the Cabinet level. Bringing these matters before Parliament would increase checks and balances and hence democracy. It should be favoured on that ground. Furthermore, *it is essential that such matters be debated publicly if a reformed Senate is to perform its "monitoring" role efficiently.* To those who argue that this will slow down the decision-making process, I reply with the argument developed earlier, that such a procedure will increase public involvement in public affairs and, over the longer term, will make for a more politically mature citizenry.

But a more intense involvement of parliament in the policy design of federal-provincial matters and a restriction of executive federalism to "production" and implementation of policies are not sufficient for efficient competition. *Efficient competition also requires that more information be available to the public, not only on the federal-provincial and provincial-provincial policies that are co-ordinated, but on the nature and form of the co-ordination.* At present, in the *Access to Information Act*, federal-provincial communications are accorded a status equal to that of national security. That is ludicrous and should be changed.

## 7. The Territorial Basis of Interest

The search for a basis that would make it possible to define a community has absorbed much time and effort in the last two or three centuries. Such a search has had many motivations, some more noble than others. One of these has been the belief that some notion of community was a necessary adjunct to the definition of the still dominant, and not receding, idea of the nation-state. Community was therefore sought along cleavages or lines of demarcation between people such as race (colour, blood and cranial measurements having been the most important indexes of race), language, ethnicity, religion, and in more recent times, culture and "society", these defined in purely socio-institutional terms.

Much of the reflection on federalism developed in juxtaposition to that on the nation-state. In addition, federalism appeared to some as a way of salvaging the idea of community, based on whichever cleavage was cherished at that moment, together with the notion of some minimum efficient size of country. It is not an accident, therefore, that in much of the literature on federalism—even fairly sophisticated literature—federalism as a "community of communities" or as a compact, a confederation or an alliance of communities based on particular cleavages, keeps coming up.



In Canadian thought, this intellectual atavism has nourished two dominant views of what may be called communitarian federalism and a number of minor derivatives which it would serve no purpose to even acknowledge. The first of these dominant traditions, and by far the one with the highest profile, asserts—in language that has changed as times and circumstances have changed—that Canada is made up of two “peoples”, “two races”, “two cultures”, or “two societies”. According to that view, the fact that there are ten provinces in Canada is seen either as an illusion—a way of shifting attention away from the cherished dichotomy—or as a sinister ploy to deprive one of the peoples-races-cultures-societies of its identity (one that is re-defined as the terms of the dichotomy are re-defined).

The second major tradition of Canadian communitarian federalism acknowledges the fact that there are ten provinces in the country, and goes on to assert that they constitute ten communities. History has played havoc with the first or “dichotomy” tradition as the constant change in language indicates. But things are worse for the “ten-provincial-communities” tradition, if only because any definition of society and culture that has the barest elements of operational significance will not be applicable at the same time to the provinces and to the nation. In other words, if one adopts a definition of culture or society that makes Alberta, Ontario, Quebec and Newfoundland—the provinces most often mentioned—into distinct communities based on cultural or societal dimensions, then on that definition Canada will not be a community.

Before indicating why we must divest ourselves of these atavistic intellectual notions, let me note one implication of the doctrine of communitarian federalism. Since the communities are based on race, language, culture, or whatever, there is no place for horizontal competition between the various provincial governments, because a provincial government, which is assumed to be catering to a community of individuals whose preferences are assumed to be defined by communal characteristics, will be able to do very little, if anything, of interest for individuals of another community whose preferences are defined on an altogether different set of communal characteristics. And, may I add, as a matter of logic, the federal government is superfluous, in that system. It is true that it has a role to play in the “dichotomy” tradition where it is seen as the government of one people-race-culture-society, replacing the nine other superfluous provincial governments!

Horizontal competition has no role to play in a model of communitarian federalism because that notion of federalism is always used as a device to collectivize interests. To put it differently, the notion of community is used as an instrument to make the interests of Manitoba dominate those of Manitobans and the interests of Prince Edward Island those of individual Islanders. Consequently, only the government of the community can know the interests, preferences and aspirations of the community. Other governments, not being of the “proper” race, blood, language, religion or culture, are by definition strangers to these interests. It is a neat assumption to use to remove competition.<sup>14</sup>

It is essential to acknowledge that provinces are made up of people, some of whom have traits that are similar to those of other people in the same

province and in other provinces, but also of some who have dissimilar traits. There is no province in Canada that is made up of a homogeneous mass of people and there is no province in Canada in which the interests, preferences and aspirations of all the people are the same. And it is to be hoped there never will be.

But even if there were, even if the people of Canada were sub-dividable into  $x$  or  $y$  homogeneous globs of humankind, that would not furnish us with a rationale for a federal state. That rationale, as the *Federalist*<sup>15</sup> in the great debates that preceded the Philadelphia Convention of 1787 recognized, is to provide the political system with more (additional to those in each government) competition to insure that over the long run, political power is exercised both efficiently and legitimately in the interests of citizens. In a political system based on parliamentary rules of the game, the importance of additional competition cannot be over-emphasized.

The foregoing is *not* a denial of the existence of communities. I recognize that these exist and that they play an irreplaceable role in the life of people. Without the communities provided by families, professions, workplaces, churches, associations and groups of various sorts, anomie, disintegration, and even a Hobbesian “war of all against all” would be the norm. I am only saying that there is no independent definition of community that can serve as a guide to the design of federal structures and to their governance. *The task of governments is to meet the preferences of citizens who happen to be in the provinces or in the country they have been elected to govern.* Meaningful provincial communities do not exist, except as provinces.

## 8. Nation Building and Province Building

Earlier, in Section 11.3, I noted that unless property rights are well-defined, unless trust is sufficient or unless “monitoring” is efficient, competition will not produce the beneficial results which it can be expected to produce. I repeat that it is possible to have property rights that are so inappropriately specified and/or so poorly enforced, to have such a lack of trust, or to have “monitoring” that is so inefficient, that the effects of competition will be perverse. This is therefore a central issue. In this subsection, I look at some of the factors that govern or at least should govern horizontal competition. In Section 11.9 I turn my attention to the same question for the case of vertical competition. I must insist immediately on two points: first, as I have already noted, it is not possible, given the present state of knowledge and research, to describe all the conditions—those necessary and those sufficient—that make for efficient horizontal political competition in a federation; second, in the discussion on the division of powers (Section 11.5), on executive federalism (Section 11.6), and on the territorial basis of interest (Section 11.7), I have already indicated some of the conditions that are necessary for efficient competition. Those that follow are additional.

The first of these conditions pertains to a notion of “competitive equality”. To be sure, efficient horizontal competition does not require that all competing units be of equal size any more than efficient competition in markets requires that firms be of equal size. But it must be that the large

units are not in a position to continually dominate, coerce, and in other ways prevent the smaller units from making independent autonomous decisions; nor are they in a position to inflict "disproportionate" damage on them. The smaller units must be able to compete with the strong on an equal footing. This problem is more acute in some federations than in others, and is certainly an important one in the Canadian federation in which the disparity in the size of provinces is large and possibly growing.

*The responsibility for insuring that the smaller units are able to compete against the larger ones cannot lie elsewhere than with the federal government.* That is a first reason why the central government is different from provincial governments. How does the central government play this role or fulfill this responsibility? Before answering this question, let me note that it cannot be an easy role to play, because, as I have already indicated, the federal government, also competes with the provinces. We are faced with the situation in which a government, competing with those at another level, must act to insure that the competition between the latter is "fair" and "productive". That is necessarily a difficult task, one that cannot be left exclusively to the day-to-day push and pull of politics, but must be institutionally entrenched. I discuss the problem in Section II.9.

Conventional wisdom about public policy in Canada is overlaid with the words "nation-building" and "province-building". When the view is not made explicitly, it is implicit that nation-building is the business of the central government, while province-building is that of the provinces. I would like to suggest that a look at the record would indicate that that attribution is largely wrong: the central government in Canada (and I would submit in other federal countries also) has been and continues to be engaged in province-building as much, if not more in certain instances, than the provinces themselves. That is one of the ways it acts as a "monitor" of horizontal competition.

How does the federal government foster province-building? It is not possible in this brief statement to indicate all the ways this is done. It will do if I give examples taken from various modes of interventions to illustrate what I mean; the reader will then be able to provide more examples for him or herself.

One notorious example of federal province-building was the creation of the Borden Line, the line which forced a differential price in oil and oil products, such that the prices east of the Ontario-Quebec border were lower than those west of that line. The policy permitted the development of an oil industry in Western Canada at a time when the pure economics of the case would not have permitted that to happen. Although it was not called province-building, nor labelled regional policy either, there can be no doubt that the policy played that role, and quite effectively so.

A second example of province-building is the entire set of policies which have come to be labelled regional policies and over which there is still so much uncertainty and controversy. An analysis would indicate that the federal government has always pursued regional policies: it has always tailored or adjusted relevant policies to regional or provincial realities. However, the modern development of regional policies begins in the post-war



period, more exactly in the 1950s, and continues to expand and grow until the present. This is not an accident. If one of the roles of regional policy is to insure that the smaller and least favoured provincial governments are able to compete with the larger and more favoured ones, it must be that regional policies will grow and acquire more significance as the intensity of competition increases. The most casual observation confirms that the extent and the degree of horizontal competition in the Canadian federation have grown enormously in the post-World War II period as the provinces have "come of age". This coming of age has manifested itself in a number of ways, not the least of which is the increase in the size of provincial budgets – relative to the total of public expenditures – and the development of competent, mature provincial bureaucracies.

A third example of province-building policies by the central government – that is, of policies which make all provincial governments, if not equal, at least capable of horizontal competition that is efficient and productive – is equalization payments. These grants, to which I devote some discussion in Section III, are primarily an instrument aimed at improving the competitive position of the weaker *governments* of the federation and ameliorating the productive features of the competition in which they are engaged *vis-à-vis* other provincial governments. They are not instruments aimed at achieving "horizontal equity" between the inhabitants of the provinces. This does not mean that considerations of equity and of narrow (neo-classical) economic efficiency do not enter their design. But these grants would be of minor importance if their primary role of acting as province-builders was set aside. That is why it was appropriate for the federal government, after the increase in the price of crude oil that made the Ontario government a "have-not" government, to change the equalization formula so that government remained a "have" government: in the competitive game, it is hard to imagine that the Ontario government is not a "have" government.

One could continue giving examples, (for example, transportation policy, procurement policy, etc.), but the point, I hope, is made. Before moving on, I stress two subsidiary points. First, the fact that the various programs I have listed to illustrate the nature of province-building by the federal authorities exist, does not mean that they cannot be improved. Therefore, the fact that the federal government engages in province-building activities does not tell us whether it does too much or too little of it. The second point, which I mention only to remove all ambiguity, is that even if the federal government pursues province-building policies, this does not mean that the provincial governments do not also pursue policies aimed at the same end. Furthermore, province-building policies, whether federal or provincial in origin, contribute to nation-building. These obvious points have to be made only because the conventional dichotomy between nation-building and province-building tends to obscure them.

Besides competitive equality, another condition, this one pertaining to the appropriability of costs and benefits of public policies, must be satisfied. (A not dissimilar condition must also rule in markets if competition there is to be efficient.) The condition requires that the benefits and costs of decisions made by the government of a province be borne by the people living in that



province, and, therefore, by the government of the province. This condition is particularly relevant for costs, so let me re-state it with respect to that variable. In competing to attract businesses to its jurisdiction, either by supplying particularly attractive local public goods, such as theatre, concerts, or dance, by offering tax advantages, or by buying part of the output of the sought-after enterprises, the government of a province should not be able to shift the burden of the offered amenities to the citizens of other jurisdictions. It is clear that otherwise the competition would be inefficient. There is already considerable machinery in place in Canada to ensure that benefits and costs are appropriated by decision makers themselves. This is particularly the case in the field of taxation. But there is room for improvement. I will return to this question when I address the issue of "economic union" in Section III—a matter that is important enough in our terms of reference to have given the Commission part of its name.

Were I engaged in writing a formal treatise instead of presenting a broad framework that can help decide on appropriate policies, I would devote considerable space to another condition for efficient competition which could be called "entry". For competition to be efficient, those who can elicit more support should be able to enter the competitive arena and those less effective at doing that should have to leave it. Although there is some evidence—mostly American—that the life expectancy of political incumbents has been increasing, it is not known whether that phenomenon is "natural" or contrived.<sup>16</sup> Should future research indicate that anywhere in the Canadian federation, entry by existing or new political parties to the apparatus of state is reduced by artificial contrivances, that would be a matter for serious concern, because that would greatly reduce the competitive nature of Canadian politics, not only between parties, but overall.

The matter is particularly important in respect of electoral rules, because these may, under certain circumstances, prevent the representation of groups of citizens in political institutions. There is some weak evidence that the operation of electoral rules in Canada, both nationally and provincially, may be artificially lengthening the tenure of incumbents. If that is ever seriously documented, these rules should be altered.

## *9. Who Monitors the Monitor?*

"Who monitors the monitor?" is the most fundamental question of economic, social and political organization. It was raised in the first century of our era by Juvenal (*nam quis custodiet ipsos Custodes?*) and continues to be asked to this day.<sup>17</sup> It is a fundamental question, but, ironically, it is one that possesses no satisfactory logical answer. For, indeed, if one finds a monitor (guard) who will guarantee that an appointed monitor (guard) will do an assigned job well, how are we to know that the first monitor will do his or her job the way it should be done? Economists have been somewhat cavalier with the question, and, given how hard it is to answer, they are somewhat justified. They have usually assumed that the state should monitor property rights, competition and market behaviour, but have seldom asked who should or would monitor the state. Economics, indeed, has no worthwhile theory of politics.

I suspect that it is this fundamental question, lurking in the back of people's minds, which is the biggest impediment to an acceptance of the obvious fact that democratic politics is competitive. The idea of competition is, of course, intimately related to the notion that individuals pursue their own interest. If politics is competitive and driven by self-interest, who will monitor politics? To assume that politics is not competitive, or should not be, has been the classical way out of the problem. The assumption will not do and, indeed, has never done.

Historians report that when the Fathers of the Canadian federation met in Quebec City and in Charlottetown in 1864 and 1867, as well as when the Constitutional Convention met in Philadelphia in 1787, the debates on the division of powers in both cases took very little time. Agreement was reached almost immediately on the conviction that the proposals envisaged were reasonable, and that in any case, marginal changes in the division of powers could be achieved subsequently either formally, informally, or by judicial interpretation. The wisdom of both groups of Fathers has been vindicated by history.

What required much time and debate and was the source of intense bargaining in both cases was the Senate. To my knowledge, why things happened that way has not been considered, nor has an explanation been provided of why the structure of the Senate mattered so much to these wise men. The explanation, I wish to suggest, rests on the fact that senates play an absolutely central role in "monitoring" the vertical competition that exists in federations—the competition between the federal and provincial (state) governments. Because of that central role, it is desirable that senates be designed so as to guarantee that competition is as fair and as unbiased as possible. In my view, the Americans understood this,<sup>18</sup> whereas the Canadians did not; they were too British in their outlook to understand federalism and the role of a senate in that form of political organization.

The Senate acts as a "monitor" of vertical competition by injecting a provincial dimension in the central government. In a well-functioning federation, although it would always be an integral part of the central government, a senate would in some important sense be related to both orders of government. The Supreme Court was therefore right, and revealed a profound understanding of federalism, when it recently argued that the federal government could not alone, that is, without the provinces, change the basic structure of the Canadian Senate.

It is interesting to note, in passing, that the New Democratic Party as well as its predecessor, the Canadian Commonwealth Federation, have consistently favoured, not the reform of the Canadian Senate, but its abolition. One must also acknowledge that these parties—less so in recent years than in the past—have often been luke-warm *vis-à-vis* federalism as a way of organizing politics.<sup>19</sup> I find great logic in that position, and, to me at least, it confirms that in a federation, a senate has an important "monitoring" role to play. To the extent that federalism becomes absorbed in the interstices of NDP thought, I would expect that party to move from abolition to reform of the Senate.

A senate can only play a "monitoring" role if it has legitimacy, and, in our time, *that can be achieved only if it is popularly elected*. Comparisons with the House of Lords in the United Kingdom are beside the point. The United Kingdom is not a federation and therefore whether the House of Lords has legitimacy or not cannot be an impediment to a role of "monitor" of vertical competition.

However, legitimacy is not enough. If a senate is to inject a provincial dimension in the federal government and thus become capable of "monitoring" vertical competition efficiently, *the basis of representation must be provincial*, not regional, as is current practice. The persistent confusion between provinces and regions that one encounters in the literature and in public debates is a close cousin, I believe, to the notion that interests are communal. The size of provinces and the location of their frontiers are not "rational" in any real sense of that term, but they are there and they determine the jurisdictions of provincial governments.

There is a growing recognition in Canada that the basis of representation in the Senate should be provincial, but there seems to be no rationale underlying this developing awareness. Because the notion of provincial representation is not derived from a well-structured theory of federalism, but appears to be no more than a component of the current Zeitgeist, it could be as fleeting as all Zeitgeists. It is therefore important to know why provincial representation is better than regional representation.

The House of Commons is elected on the principle of popular representation: that is as it should be. But if the Senate is to "monitor" vertical competition efficiently, it must be elected on a different basis. *The best rule would be, as is the most common practice in other federations, to make all provinces equal*. Thus, each province could elect ten or twelve senators. The current practice is not only inefficient, it is perverse, since it gives more, considerably more, senators to the large regions (provinces), thus adding to the "competitive inequality" that is inherent in size differences, however measured. It is hard to imagine that the larger and more powerful provincial governments—Ontario and Quebec—would accept changes in the rules of the game that would oblige them to compete more fairly with Manitoba and Prince Edward Island; but without being an incurable dreamer, one can hope that the genuine sense of fairness that characterizes Canadians may, one day, induce these governments to adopt such a change.

The primary role of the Senate should *not*, therefore, be that of a "chamber of sober second thought", although it would continue to play that role. *Its primary role should be to give saliency to the provincial dimensions of public policies*. I stress that this is not essentially a representation role; it is a "monitoring" function. In other words, in the competition over resources and policies that takes place in the national government, it is imperative, if the competition is to be efficient, that provincial interests be competing with each other on an equal footing. It is not sufficient, to put it still differently, that provincial interests be represented appropriately in national debates. They must be able to vie with each other on a basis of "competitive equality"; otherwise the checks and balances that characterize national politics will be



biased against the weaker provinces, even if their points of view are represented. A capacity to compete is more than a capacity to talk; it is also, and radically, a capacity to exert a real influence on decisions. That is the real meaning underlying the notion of "monitored" competition.

To fulfill its "monitoring" role, the Senate should keep some distance from the House. This would be achieved *if the Senate was not elected on the same basis as the House*. I have already noted that the basis should be provincial and that equal representation of the provinces should be the objective. In addition, *it would be best if the Senate was elected on the basis of proportional representation, at fixed intervals and for fixed periods*. If these were the rules, the distance between the House and the Senate would be great enough to insure that the Senate could "monitor" vertical competition effectively. If the distance was any less, it would be too much a creature of the House of Commons to do effective "monitoring".

It has often been suggested that the Senate be given a six-month suspensive veto. That raises a difficult problem. A suspensive veto, it would seem, is not consistent with legitimacy acquired at the ballot box. Elected Senators are unlikely to be satisfied with a temporary delay, especially if the matter is a pressing one. At the same time, it is important to leave the matter of confidence in the Cabinet with the House. What should be done? I think that it would be best if the Senate was not given a suspensive veto. *Instead, a bill that was amended or defeated in the Senate should be passed anew by the House of Commons*. That would leave the ultimate power with the House, and would be conducive to bargaining between MPs and Senators. A suspensive veto does not encourage compromise.

The Senate is not the only national body that serves to "monitor" vertical competition. That is also done by the Supreme Court. It is that body which interprets the division of powers and determines the competitive behaviours which, from a legal point of view, are constitutional and those which are not. In the absence of an efficient Senate, the burden which must be carried by the Supreme Court, in its role of "monitor" of vertical competition, tends to be too heavy. However, the remedy for the problem is *not* to reform the Supreme Court, as some have proposed, but to reform the Senate.

### **III. Applications**

A theory of competitive federalism, such as the one adumbrated in the foregoing pages, has great power not only in providing an integrative and unifying framework to matters which otherwise appear not to have any meaning and consequence, but also in making it possible, as I hope I have already shown, to address matters of institutional reform in other than a purely *ad hoc* fashion. That is true in respect of Senate reform, a matter that has provoked countless suggestions, not many of which, however, are anchored in a strong rationale related to the purpose or role of that body. That is also true for the institutions of Executive Federalism and for regional development policy, a subject to which I return below.

In the discussion that follows, I wish to demonstrate the power of the theory by applying it to sundry issues that have been raised in one locality or



another during the Royal Commission's hearings. These are usually matters on which there is considerable debate, that is, matters which are difficult to discuss because of the lack of a consistent framework of analysis. Applying the theory of competitive federalism to these questions and deriving the recommendations for reform which seem to follow from it will shed more light on the approach.

I will look at five questions which are "natural" questions for a theory of competitive federalism. Because neither time nor space allow an extensive and detailed treatment, I will only sketch the problems and point to the solutions. The reader will have to supplement the development with his or her own insights. I will examine the following five questions in the order indicated, although that order is not an index of significance or of saliency: 1) economic union; 2) intergovernmental grants, that is, equalization payments and established program financing; 3) Tax Collection Agreements; 4) the Charter of Rights and Freedoms; and 5) municipal governments.

### *1. Economic Union*

Economic development policies, of which industrial and regional policies are a sub-set, now play an important role in the policy arsenal of every jurisdiction. Many times, of course, they are not called by that name; they may even be implemented as a part of other policies. For example, it has been said that industrial and regional considerations play a significant role in the defence and military expenditures of the United States government;<sup>20</sup> it is, in any case, a fact that the Pentagon publishes yearly a map which displays defence expenditures by congressional districts!

These economic development policies are, as I have already argued, the product of federalist competition, but in two different senses. First, some of these policies are responses by federal and provincial governments to opportunities created either by the demands of citizens or by comparative public entrepreneurial capacity. For simplicity, I will call these demand-supply development policies. Secondly, some policies are implemented, mostly by the federal government, but not inappropriately also by both orders of government acting together, to ameliorate the degree of "competitive equality" between the provinces of the federation in order that competition between them be more efficient and productive.

It is absolutely essential to keep the above distinction in mind in analysing industrial and regional policies, and, more generally, economic development policies. The distinction is a feature of federations which is absent from unitary states. In the latter, indeed, the only source of economic development policies is demand and supply considerations; the establishment of property rights aimed at making federalist competition efficient is, by definition, absent in these political structures.

Though it is important to distinguish between the two identified "sources" of development policies, it is also indispensable to keep in mind that they are not independent of each other. The relationship between them can be put in the following way: the more efficiently designed the economic development policies that serve to promote "competitive equality" and thus to "monitor"

federalist competition, the higher the benefit-cost ratio of development policies implemented in response to demand-supply considerations.

To see why that must be so, we must first identify the benefits and the costs of the development policies I have called demand-supply policies. The benefits are easily ascertained, at least for those who assume that when governments respond to what people want, they raise the well-being of these citizens.

The costs arise because economic development policies almost invariably create impediments or barriers to the free movement of goods, services (for example, the services of lawyers, nurses, etc.), labour, capital and entrepreneurship. These barriers—in the present discussion solely a by-product of responses to the demands of citizens—reduce the specialization that would otherwise be achieved in the use of scarce resources. It is these barriers that constitute the “economic union problem”.

The affirmation made above that if the economic development policies designed to “monitor” federalist competition are efficient, the ratio of the benefits and costs just defined would be maximized, rests on the notion that federalist competition is a self-corrective mechanism. To put it differently, federalist competition, like all competition, if it is well “monitored”, is efficient in the sense that it will economize on scarce resources in achieving the objectives willed by people. Indeed, efficient “monitoring” means, among other things, that costs imposed on others in the competitive pursuit of a target must be proportionate to the benefits obtained. In addition, self-correction or restraint is brought about by the fact that under efficiently “monitored” federalist competition, the benefits of economic development policies are closely related to their own costs.

If the above analysis is correct, it has one empirically testable implication: there should be more inefficient barriers to the free flow of resources in unitary than in federal states. In unitary states, indeed, the discipline of competition is much weaker, and the obligation to meet the preferences of citizens less constraining. I should insist that to test the proposition, one must focus on demand-supply development policies, and exclude from the analysis those policies implemented to make federalist competition efficient. It is not an easy proposition to test, but my own casual observation of both unitary and federal states supports the proposition.

In the Canadian context, “monitoring” is not as efficient as it could be, not only because the Senate does not interject the “proper” provincial dimension in federal institutions, but because Executive Federalism is too “encompassing”, and because of other reasons, some of which have been noted above. Consequently, the economic development policies that should serve to improve “competitive equality” and to make federalist competition more productive are less than optimal; and the benefit-cost ratio associated with demand-supply policies is lower than it could be.

What should we do to correct that situation? The best solution is to reform the Senate and the institution of Executive Federalism along the lines recommended earlier, as well as implement other measures, such as those suggested in this supplementary view, that would make federalist competition more efficient. If this was done, the only other things that would be needed would be to implement the recommendations of the Commission’s Report

pertaining to section 121 of the Constitution Act and those relating to interprovincial trade.

If significant institutional reforms cannot be achieved, then *as a second-best solution*, I support the Report's recommendation that a Federal-Provincial Commission on the Economic Union be established to implement a "Code of Economic Conduct" that would be a "monitor" of the economic union. My own version of the code, would, however, require that the distinction made above between what are in effect "framework" policies and demand-supply policies be entrenched and respected. The code would then be aimed at restricting the implementation of demand-supply development policies that have an "obviously low" benefit-cost ratio. The code should seek to achieve through administrative and bureaucratic means what, in a more ideal situation, would be the "automatic" outcome of the operations of Parliament, federal-provincial machinery, and federalist competition.

## 2. Intergovernmental Grants

All theories of intergovernmental grants reflect or are derived from some theory of federalism. That thought may seem obvious, but it bears repeating, because there are many theories of government grants which present themselves as independent of any conception of federalism. I do not have the time nor the space to demonstrate that point here; that will have to wait. It will be clear, however, that the theory of grants that follows is an integral part of the theory of competitive federalism. It does not rest on such intractable and pious notions as "Canadians are a sharing people" or "Canadians are compassionate"; it does not, in other words, derive firstly from notions of equity, because if equity was the basis for governmental grants, one would be led immediately to the view that transfers should be made to persons, not to governments.

I have already indicated that the role of government grants is the promotion of "competitive equality" between the provincial governments of the Canadian federation. The purpose of this section is to amplify this point. I consider equalization payments first, and then turn my attention to the financing of established programs.

I must repeat that in a federation, the competition that I have called horizontal takes place between the *governments of the federation*. Equalization payments are aimed at making that horizontal competition work more efficiently. That rationale is not inconsistent with section 36(2) of The Constitution Act, 1982 which says that equalization payments are made "to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation".

An efficient equalization formula redistributes tax revenues between provincial governments but, importantly, it does so according to certain (temporarily fixed) rules and thus acts as an "automatic monitor" of horizontal competition. Equalization payments, therefore, allow weaker provincial governments to "hold their own" *vis-à-vis* stronger ones in federalist competition; but also, they serve to deter any provincial government



from engaging in competitive actions that would be privately beneficial to itself, but socially inefficient and destructive.

Let me give an illustration of this last point. Suppose that a provincial government sought, through predatory behaviour, to attract the head offices of corporations to its province, so as to increase corporate profits in the province and hence revenues from that source. In the absence of an equalization formula (or of other "monitoring" devices), such action, even if destructive, could be profitable to the province. But an efficient equalization formula would produce a reduction in equalization payments to the province and would thus deter such predatory behaviour. It is clear that the deterrent should not be absolute; indeed, it should be incremental. It is also clear that an efficient equalization formula need not subject all provinces to the same marginal deterrence. The current formula, based on a five-province standard, is different in that respect from the older formula which was based on a ten-province standard, but it is not necessarily inferior to it. To come to a decision on the matter requires a judgement about the relative competitive ability of provincial governments.

Equalization payments do redistribute income but their primary rationale and their prime function is allocational. It is because of this allocational role that equalization receives the support of all provincial governments, those of the "have" and those of the "have-not" provinces. It is also because of the allocational function that equalization payments have to be unconditional; if they were not, they would suppress federalist competition.

In this regard, it is important to stress that an efficient equalization formula should "monitor" competition, not seek to eliminate it. Suppose, for example, that a provincial government, as a result of some fortuitous or deliberately sought event, benefits from a windfall revenue which would permit it to compete more effectively with other provinces for resources and people; should the equalization formula redistribute all of this windfall between the provincial governments and thus impede federalist competition? Certainly not. Such a provincial government is indeed in the same position as a firm which, following a favorable event, is able to expand its clientele at the expense of other firms.

Those who would suppress federalist competition in that way usually embrace a Benthamite notion of government, according to which governments act in the public interest because the public interest is their business, and because to be in public life is to be motivated by the public interest. When governments are assumed to always maximize social welfare functions, why have competition, indeed, why have governments in the first place?

I note in passing that the view of equalization grants advanced here is, broadly speaking, the one to be found in the *Report* of the Royal Commission on Dominion-Provincial Relations, commonly known as the Rowell-Sirois Report. It is true that that Commission's conception of federalist competition appears to be different from mine, at least on a first reading: it seems to be arguing that federalist competition is essentially destabilizing and destructive. That Commission's views reflect the analysis of the realities of interprovincial fiscal competition during the 1930s, as well as the prevalent idea of the period which viewed competition as generally inefficient even in markets.

The “monitoring” role of the federal government in the 1930s was by any reckoning quite limited. It is intriguing that Rowell-Sirois recommended the introduction of National Adjustment Grants (NAG), admittedly different from, but close in spirit to the present equalization grants which I argue make competition more productive. The Commission also recommended that the NAG be unconditional. The rationale for its recommendation, though shunning the language of competition, is so suffused with its spirit that it is worth quoting at length:

*It should be made clear that while the adjustment grant proposed is designed to enable a province to provide adequate services (at the average Canadian standard) without excessive taxation (on the average Canadian basis) the freedom of action of a province is in no way impaired. If a province chooses to provide inferior services and impose lower taxation it is free to do so, or it may provide better services than the average if its people are willing to be taxed accordingly, or it may, for example, starve its roads and improve its education, or starve its education and improve its roads—exactly as it may do today. But no provincial government will be free from the pressure of the opinion of its own people and if, when it applies for an increased adjustment grant on the basis of need, it has to produce figures which indicate that although it might, without specially heavy taxation, have provided better education but did not do so, it has, of course, to justify this to its own voters.<sup>21</sup>*

But, given the *Zeitgeist* of the period, the Rowell-Sirois Report could not imagine that, even after the implementation of the NAG, the federal government would become a true “monitor” of horizontal federalist competition. For that reason, it proposed dealing with competition by re-assigning taxation and significant expenditure powers to the federal government. That was the solution adopted everywhere at that time. It rested on a confusion between competition and the mechanisms that insure its efficiency: property rights, trust, “monitoring”, and so on—a confusion which still today is far from fully exorcised.

That notwithstanding, there is still something that we can learn from the Rowell-Sirois Report and from section 36(2) of the Constitution Act which reflects that Commission’s view of NAG. To put it as simply as possible, the current equalization formula reflects only the revenue needs of provincial budgets. *Competitive equality would require a formula designed to reflect expenditure needs as well*, but only if the costs of incorporating the expenditure side in the equalization formula do not exceed the benefits.

Equalization grants are negotiated grants; the negotiating parties are the federal and provincial governments. Because these grants are aimed at improving “competitive equality” between the provinces, the role of the federal government cannot be symmetrical to that of the provinces, for if it was, the outcome of the negotiations could easily be more competitive inequality instead of more competitive equality. Indeed, a neutral role on the part of the federal government would eliminate the “monitoring” function that must be played by the central government. In some circumstances, it may even be necessary for the federal government to act unilaterally as it did a few years ago, that is, to forego all negotiations with the provinces.

The Established Program Financing agreements, as they currently exist, are of a class and kind that is altogether different from the equalization payments. Their intent and purpose is to limit and even to eliminate interprovincial competition in certain areas. Whether that is good or bad is not at issue here. (In fact, I support the recommendation of the Commission's Report that the mode of financing of education be changed with the aim of increasing interprovincial competition at the level of post-secondary education.)

But if, for any reason, the federal and provincial governments choose to restrict horizontal competition in certain domains, such as is presently done in health and education, *then the grants used for that purpose must be conditional grants*. The situation in which we currently find ourselves regarding this matter derives from the fact that the grants are unconditional. Unconditionality, in turn, is the product of a reliance on a theory of intergovernmental grants in which the decision makers are neither real governments, nor competitive.

The problem which unconditionality creates is analogous to a "free rider" problem. By agreement and by choice of financial instruments, federalist competition is suppressed in, let us say, post-secondary education. The device used to suppress competition is "national standards" or "minimum standards". Since competition is eliminated, unconditional money will not be spent in that area, but will tend toward areas where competition is greater. Consequently, "national standards" are not achieved, federalist competition is distorted, and federal-provincial relations soured.

### 3. Tax Collection Agreements

There are substantial real economies of scale in tax collection. It is not clear and certainly not known whether these economies persist over all the taxable units in the country. But it is not impossible that they do. There are therefore advantages, possibly large, to the Tax Collection Agreements whereby the federal government collects personal income taxes for all provincial governments (except that of Quebec), and also collects the corporation income tax (except for the governments of Alberta, Ontario and Quebec).

The economies of scale derive from many sources. Not unimportant among them are the following: the tax bases used by all parties must be defined in the same way and, secondly, though tax rates can differ, they cannot differ by much. The Tax Collection Agreements therefore serve as a way of reducing tax competition between the provinces and possibly between the provinces and the federal government. The economies of scale in tax collection are not, therefore, dissimilar to the economies of scale that would result if dress manufacturers were to sign a Fashion Standardization Agreement whereby dress styles and designs would be restricted and differences in them greatly limited.

The analogy is appropriate not only in illustrating how the Tax Collection Agreements restrict competition, but in indicating why so many tax experts think they are a good thing! It is, indeed, only recently—some thirty to forty years after the introduction of "monopolistic competition" as a model of



markets in which businesses compete with each other through the medium of fashion and product characteristics—that economists openly acknowledge that product differentiation may raise economic welfare instead of always reducing it.

The point can be put differently. There are often costs, in addition to advantages, in exploiting economies of scale. In the case under consideration—the Tax Collection Agreements—the benefits of standardized tax bases and (to some extent) rates are readily appreciated. The costs resulting from restriction of competition and over-standardized bases and rates are, however, no less real even if less direct and palpable.

The foregoing does not mean that tax collection agreements should not exist. But the advantages must be balanced against the costs. After study, it may be decided that collection agreements should bring together the provinces in three or four sub-sets in which the federal government would not be involved. The bulk of the economies of scale could thus be exploited and the benefits of tax competition reaped.

Whatever is done, it is well to stress that tax competition would not necessarily produce large differences in tax bases and rates. Indeed, to the extent that there are no differences in preferences of citizens and in technologies of production, competition would operate to eliminate differences in tax rates. However, if there are real differences, especially in the preferences of citizens, competition would guarantee that these are not forgotten. Since differences in preferences between provinces are not absolute (see Section II.8), there is a “natural” limit to the extent to which competition would lead to differences in tax bases and rates.

#### *4. The Charter of Rights and Freedoms*

Everybody who has made it into the twentieth century and who pronounces on the matter supports rights and freedoms. The issue, if there is one, is not there; it is instead with the notion of a charter that has constitutional strength. The argument is sometimes made that a charter of rights and freedoms encroaches on parliamentary supremacy by allowing the judicial branch of the Government to pass judgement on and to review matters that have been decided by Parliament (as well, of course, as on other matters).

The flavour of the argument that a charter of rights and freedoms is not congruent with parliamentarism resembles, in many ways, the one to the effect that federalism and parliamentarism are not congruent. In fact there is enough resemblance between the two lines of reasoning that one can venture the hypothesis that those who in 1981–82 opposed a charter for Canada, would in 1864–67 have opposed the formation of the Canadian federation.

However that may be, let me ask if a charter and parliamentary institutions really lack congruence. The answer suggested by the theory of competitive federalism is that a charter and parliamentarism are congruent, because a charter makes the whole political system more competitive. It does this by bringing the courts, more especially the Supreme Court, more effectively into the competition that characterizes the political process. First, it sharply increases the competition between the judiciary and the two other branches of

government—the executive and the legislative. That, by itself, is a major contribution of the Canadian Charter, for inevitably, over the longer term, the competition will tighten the democratic link between governments and citizens, by giving more importance to citizens, as citizens, in the political process. One implication of this is that the Charter will heighten the degree of competition between the public and the private sectors and to the extent that the latter responds, will truly raise the well-being of Canadians *by increasing market competition*.

It is important to note that the closer government-citizen link that the introduction of the courts in the political process will foster is not limited to the federal government, but will affect all the governments of the federation. To put it differently, the interests of citizens will, henceforth, not be met and served by eleven parliaments only, but also by the courts since citizens will be able to use the courts to be better served by parliaments. Through this second channel, the Charter of Rights and Freedoms will stimulate horizontal competition in the federation. This has already begun: through the courts, interests in one province are challenging rulings and laws in another. That can only serve the public good.

There is a third channel through which the Charter will affect the working of the political process, namely, by strengthening the ability of the Supreme Court to “monitor” vertical competition between the central and the provincial governments. This is achieved through the ability of governments at each level to appeal to the courts if they believe that decisions of governments at one level bias the workings of competition in an unfair and inefficient way. As I have already noted, that role of the courts, and again especially of the Supreme Court, is likely to be considerably larger than it should be unless the Senate is reformed in a way that introduces an effective provincial dimension in the federal Parliament.

The Supreme Court, of course, already “monitors” vertical competition. The reason why that role is likely to grow in the future derives from the fact that with the Charter, the pressure of citizens on their governments will increase and, consequently, governments will vie with each other more aggressively.

To the question of whether the Charter of Rights and Freedoms is a real third pillar of political institutions in Canada, congruent with parliamentarism and federalism, the answer must therefore be a resounding yes. The Charter, by bringing citizens more directly into the political process, increases the degree of competition in the system and, by making “elite accommodation” more difficult, will force the system to be more attentive to the preferences of all citizens.

## *5. Municipal Governments*

Municipalities, as the saying goes, are creatures of provincial governments. This means that the government of a province can unilaterally alter the boundaries of municipal jurisdictions, alter the division of powers between itself and municipalities and overrule decisions made locally in all areas of policy. As time has passed, there has been a tendency for the provinces to

consider and to treat municipal governments in many important areas, as *de facto* administrative bodies. It is noteworthy that this has been going on at the same time that provincial politicians, in their dealings with the federal government, were arguing in favour of more decentralization.

Should municipalities be creatures of the provinces, or would Canadians be better off if municipalities were more autonomous decision-making bodies, thus more capable of reflecting the preferences of their citizens and of adjusting to local circumstances? In other words, would the allocation and distribution of resources be more efficient if the municipalities stood *vis-à-vis* the provinces more or less as the latter stand *vis-à-vis* the federal government?

The standard case against an entrenched division of powers between the provinces and the municipalities is that it would lead to a recapitulation at a lower level of the problems encountered at a higher level: on the one hand conflict, rancour and disharmony, and on the other, overlap and duplication. At this point, the reader will not be surprised if, in relation to the first point, I simply say that in my language that means competition, something which, if well "monitored", I hold to be beneficial. With respect to the second point, I simply note that duplication and overlap are, in practice, what competition implies, whether we have market or political competition in mind. The point is readily grasped in the context of competitive markets: how could they be competitive if only one firm supplied a particular product?

The above objection to an entrenched division of powers between provincial and municipal governments is based on a misconception of federalism. Another objection is more simple-minded: it is that provincial governments will be opposed to the idea and consequently that it has no chance of being implemented. The objection is simple-minded because it is obvious that the provinces will be opposed to the notion; no one likes competition when that competition is directed at him or her; no elite with power readily gives it up! One should therefore expect provincial officials to marshal all available arguments – including ridicule – against the idea that if municipal officials were given entrenched powers, the country would be better governed.

Canadians would be better served if municipalities had entrenched powers. Such entrenchments would be provincial-municipal matters. They would be different from province to province. In some cases, a provincial entrenchment law might state that (say) the division of powers between the two orders of government would require some direct participation of municipalities. In other cases, the entrenchment might be more limited, so that changes in the division of powers (say) would be legislated in the provincial legislature, but require a two-thirds majority to pass. Other forms are possible.

No entrenchment can be meaningful unless municipalities are provided with tax bases that can generate revenues capable of matching expenditures. There would, of course, still be "equalization grants" to help "monitor" horizontal intermunicipal competition, but the present total mismatch of revenues and expenditures would have to be corrected.

If one province chose to promote the well-being of its citizens by giving entrenched powers to its municipal governments, it should be aware that the problems that it would face would be no different from those that have to be



resolved in federalism as we now know it. In acting as “monitor” of the horizontal competition that would exist between the municipalities, it would have to face the issues of competitive equality, of the appropriability of benefits and costs of local decisions, and others like them. These are not trivial problems, nor are they problems that the highly competent officials now employed at each of the two levels of government—provincial and municipal—could not resolve, if they chose to.

When we come to the matter of “monitoring” vertical competition—that between the provinces and the municipalities—I would suggest that this could be more economically and more effectively done by the federal government than by any other body. That role could be fulfilled by a department, such as the now defunct Department of Urban Affairs, which would develop “municipality-building” policies. The reason for placing the responsibility with respect to vertical competition with the federal government is simply that municipal governments will compete not only with municipalities located in the same province, but with municipalities everywhere in the country. In view of that, it appears difficult to avoid the conclusion that however difficult such a role would be for the central government, no one else can substitute for it.

#### *IV. Conclusion*

In the Introduction to this document, I stated my conviction that the mechanisms that discipline democratic politics, especially in federations, are as constraining as the mechanisms that discipline economic behaviour. I trust that the discussion in the two preceding sections, which has outlined a theory of competitive federalism, has gone part of the way in showing that this conviction can be held rationally. I also believe that further developments of the theory of competitive federalism will reinforce the rational basis for such a conviction.

To conclude this already long document, I ask the following question: what does it mean to say that the mechanisms of democratic politics and those of economics are equally constraining? At its most simple, it means that there are, not one, but two broad arenas in which people seek to obtain the things which increase their well-being: markets and governments. Markets, when they are well-structured and competitive, do a good job over the longer term in allocating resources in ways that maximize the well-being of the population. That is a generally accepted proposition and one in which I strongly believe. What is less accepted, but an idea in which I nonetheless believe just as strongly, is that governments, when they are well-structured and competitive, do as good a job as markets, and like them over the longer term, allocate resources in ways that maximize the well-being of people.

I must therefore reject the *a priori* notion that markets are more efficient, more flexible, and more responsive to change than governments. In some circumstances and in the performance of certain tasks, that is certainly the case. However, unless one specifies the circumstances and the tasks—an undertaking which requires the use of comparable theories of politics and of economics as well as solid empirical comparative research—affirmations to

the effect that governments are less efficient, less flexible and less capable of responding to change than markets, add up to little less than propaganda.

If comparable<sup>22</sup> markets and governments do equally well, why not suppress one and give all the responsibilities and the kudos to the other? The reason is that they do not weigh the preferences of people in the same way and do not perform the same tasks equally well. There are some jobs which markets do better and others which governments are best at performing, although it is difficult, *a priori*, to sort them out. There is an enormous literature<sup>23</sup> devoted to that question, but it is not, on the whole, a very helpful one.

It is known,<sup>24</sup> however, that to solve this assignment problem on the basis of principles, one must contrast the relative efficiency of governments and markets in the performance of the tasks to be assigned. That is more easily said than done, because as just noted, comparisons must, at the very least, start with two theories, one of politics and one of economics. Furthermore, the two theories must have enough in common to make the comparisons possible and meaningful.

Conventional welfare economics—the most common theory used by economists to address the assignment problem—lacks a theory of politics; instead, it uses the assumption that governments seek the “common good”.<sup>25</sup> It therefore “solves” the assignment problem by assumption. Indeed, if governments pursue the common good and if one can demonstrate “market failure”, one must conclude that the tasks which markets fail to do perfectly should be assigned to the state. In recent years, a “reverse logic” has been used to generate the opposite conclusion. In that case, the assumption is made that markets always allocate resources efficiently. It then suffices to demonstrate “government failure” to argue that those tasks which governments fail to do perfectly should be assigned to markets.

That reverse logic model also solves the assignment problem by assumption. Why? First, because the work on market “imperfections”—on the increasing returns to scale of many technological processes, on the declining marginal revenue of many business enterprises, on the often less than arm’s length relationship in transfer pricing, on the incidence of tie-in sales, on the presence of entry deterring strategies by oligopolists, on the downward stickiness of many prices (including, of course, the price of labour), on price fixing arrangements, on racial, gender and other forms of discrimination, and on other market imperfections—is not usually brought to bear on the matter. Second, because that model also lacks a theory of politics; it demonstrates “government failure” by reference to market mechanisms alone.

The search for a solution to the assignment problem based on first principles is probably beneficial, although that is not certain. My own view of how modern societies work is that the assignment question is “resolved” through competition between governmental and market institutions and that that competition, in turn, is shaped and conditioned by the demands of the public and by the supply of entrepreneurial talent to each sector. Consequently, a growing government sector reflects first the fact that people want not only the things governments supply better, but also those things which governments provide differently than markets, and second, the fact that more

aggressive and talented entrepreneurs have found their way in that sector. A declining government sector reflects opposite tendencies. If I am allowed a conjecture, I would suggest that a number of things which are done by governments in Canada could have been done privately, if private sector entrepreneurs had been more imaginative and more aggressive. In that sense, the success of business lobbies in preventing the implementation of an effective competition policy has contributed to the growth of the public sector in Canada.

However that may be, if markets and governments are two competing arenas for meeting the preferences, objectives and desires of people, it is no longer possible to hold to the view, so dear to those who adhere to a Benthamite notion of politics, that all taxes, regulations, subsidies and other forms of intervention by public bodies always cause "distortions".

The notion of distortion is not an easy one to work with. Consider the simplest possible case, that is the case of an economy made up of perfectly competitive neo-classical markets in which the cost of a unit of resources allocated to any use—producing goods and services, moving them around, informing people of their quality, etc.—is exactly equal to the social value of that unit of resources. In such an economy, there are no distortions by construction. The presence of monopolies, pollution, sticky prices, and of taxes, quotas, subsidies, regulations and other public interventions *may*, by introducing a wedge between private and social valuations of resources, create distortions. But they may not. If we acknowledge that governments can influence monopolies, pollution, regulations and taxes, it is essential to know why interventions take place before calling them distortions. It would indeed be a perversion of language to put the name distortion on a deliberately sought policy objective.

An illustration may help. Suppose that the population of a jurisdiction unanimously agrees to ask its government to levy a tax on alcoholic beverages, because, assuming that these are harmful to health, it believes that people could not resist the temptation of drinking more if prices were lower. If the government levies the demanded tax, it would simply be wrong to say that the tax is a distortion; it is an efficient instrument used in the pursuit of a particular objective, which it is hardly the business of analysts or observers to approve or condemn.

The situation would be different if the demand for the tax was not unanimous. Those who found themselves in the minority, unlike the others, would face a distortive tax. It is, therefore, impossible to know if public intervention is distortive or not without a theory of politics. Given that fact, declarations to the effect that the tax system should be neutral, that industrial policy should mimic the market, or that Crown corporations should be privatized, unless they are grounded both in economics and politics, may cause serious distortions, if ever implemented, by preventing the political system from doing its job effectively.

I have run out of time and space and so rest my case. I hope that the theory of competitive federalism which I have suggested above, both as a model of what actually goes on in the Canadian political arena and as a guide to institutional reform, serves as a useful clarification and extension of the



discussion of these matters in the Commission's Report and that it helps nourish the public debates which that Report will stimulate.

## Notes

1. To these two pillars, a third, in the form of a Charter of Rights and Freedoms, has been added in 1982. I will consider its implications in Section III.
2. J.A. Schumpeter, *Capitalism, Socialism and Democracy* (New York: Harper and Row, 1942, 1975) pp. 84–85.
3. Mainline neo-classical theory is a very large building. There are consequently almost always some more or less obscure rooms in it in which little-talked-about subjects are being worked at. Work on research and development, on innovation and invention, on technical change, and even on the economics of entrepreneurship has been carried out by someone or other at all times. Much of this will surely be re-interpreted and given new life in the light of the recent re-discovery of entrepreneurial competition.
4. I. Kirzner, *Competition and Entrepreneurship* (Chicago: University of Chicago Press, 1973).
5. J.K. Galbraith, *American Capitalism, The Concept of Countervailing Power* (Boston: Houghton Mifflin, Sentry edition, 1962).
6. R.R. Nelson and S.G. Winter, "Simulation of Schumpeterian Competition", *American Economic Review* (February, 1977).
7. D.V. Smiley, *Canada in Question: Federalism in the Eighties*, (Third Edition, Toronto: McGraw-Hill, Ryerson, 1980) p. 91.
8. A research paper done for the Commission also uses that model. See J.A. Brander, "Economic Policy Formation in a Federal State: A Game Theoretic Approach" (1984). Brander rationalizes the use of the prisoner's dilemma model on the basis of what he calls the "public interest" approach to politics. But it is essentially a "collectivist" or "organicism" assumption. See below.
9. R.D. Luce and H. Raiffa, *Games and Decisions* (New York: John Wiley and Sons, 1957), pp. 95. Italics added.
10. J.H. Dales, *Pollution, Property, and Prices* (Toronto: University of Toronto Press, 1968) pp. 58–59. Italics in the original.
11. There is no good word to identify that activity or the role of "monitor". I use this word because it seems to me to be the most neutral. I would take any acceptable synonym as a substitute.
12. *De jure* concurrency is often inevitable. Such cases have led to the development of doctrines such as that of "paramountcy" that help settle the accountability issue.
13. The reader, if he or she desires, can form an impression (but no more) of how I would address the question by referring to A. Breton and A. Scott, *The Economic Constitution of Federal States* (Toronto: University of Toronto Press, 1978) which is largely concerned with that matter, but in a different framework of analysis.
14. Earlier, in condemning the use of the prisoner's dilemma model as a model of federalism, I noted that it was this very same assumption which had led to its adoption. From the point of view of classical political science doctrine, the assumption derives from "organicism", as contrasted to "non-organicism" or "personalist" approaches to behaviour. The lure of organicist assumptions, even on the best minds, is always somewhat of a puzzle to me.
15. A. Hamilton, J. Jay and J. Madison, *The Federalist* (New York: The Modern Library, 1787, 1937).

16. It is possible that the life expectancy of "incumbents" is also increasing in the marketplace.
17. Juvenal's question is: "For who will guard the guards themselves?". Among the more important contemporary students of the question are J. Rawls, *A Theory of Justice*, (Cambridge: Belknap Press, 1971), R. Nozick, *Anarchy, State, and Utopia*, (New York: Basic Books, 1974), and J.M. Buchanan, *The Limits of Liberty: Between Anarchy and Leviathan* (Chicago: University of Chicago Press, 1975).
18. The Americans did not understand that role for the Senate perfectly. They designed a Senate to which Senators were appointed by the States. That proved to be a disaster. Their present elected Senate, giving equal weight to all the states, is as close to the ideal as one can hope to come in designing an efficient "monitor" of vertical competition.
19. A classic exposition of that view is F.R. Scott, "Social Planning and Canadian Federalism" in M. Oliver, ed., *Social Purpose for Canada* (Toronto: University of Toronto Press, 1961). The resistance to federalism is, in effect, a traditional feature of democratic socialism. That case is nowhere better put than in H.J. Laski, "The Obsolescence of Federalism" in A.N. Christensen and E.M. Kirkpatrick, ed., *The People, Politics and Politicians* (New York: Holt, 1941).
20. R.B. Reich, "An Industrial Policy of the Right" *The Public Interest* (fall, 1983).
21. Canada, *Report of the Royal Commission on Dominion-Provincial Relations* (Ottawa: King's Printer, 1940) Book II, p. 84.
22. The kind of problems raised by Mancur Olson in his *The Rise and Decline of Nations* (New Haven: Yale University Press, 1982) can affect markets and governments equally. For that reason, they are neglected in the following discussion. It would be easy to incorporate them in the analysis.
23. I have in mind the literature of welfare economics. At one time, that literature even served as a basis for the formulation of a theory of government. See W.J. Baumol, *Welfare Economics and the Theory of the State* (Cambridge: Harvard University Press, 2nd Edition, 1969).
24. See, for example, G.S. Becker, "Competition and Democracy", *The Journal of Law and Economics* (October 1958).
25. In modern welfare economics, governments are assumed to be maximizing a social welfare function. The "common good" is then defined by choosing a particular degree for the elasticity of substitution among the utilities of persons in society.

## **E. Gérard Docquier**

### ***Preamble***

With a view towards contributing to the debate over the economic future of Canada, I wish to submit for the public record a statement on the parts of the Final Report of the Royal Commission on the Economic Union and Development Prospects for Canada with which I dissent.

There are at least four areas with which I cannot agree—some in total and some in part. These are: the lack of a serious effort to eliminate unemployment; the advocacy of U.S.-Canada bilateral free trade; proposals to roll back the Unemployment Insurance Program; and some recommendations on labour-management relations.

My most fundamental disagreement with the Final Report is over unemployment. Unemployment is the single most important question facing Canadians today. It affects not only how much wealth there is to be distributed amongst society's members, it also reflects itself in the tragic unravelling of our social fabric. The unemployed are not statistics to be manipulated on charts and graphs—they are human beings with faces and personalities with a right to live in dignity, a right they are deprived of today. In this way the Commission has failed the people of Canada.

### ***A Commissioner's Personal Account***

In 1982, I was asked to serve on the Royal Commission on the Economic Union and Development Prospects for Canada. Canadians were living through the worst recession since the 1930s. My union, the United Steelworkers of America, the largest private sector union in this country, had 205 000 members in 1979. By mid-1982, that number had dropped to 128 000. I could put names and faces to many of those numbers. The devastation of the recession led me into homes where I found fear, pleas for help, and often-times hunger. I felt at first hand, as an immigrant, as a worker, and as a Quebecer, the personal costs associated with the destruction of our social fabric. Thousands of miners lost their jobs. Permanently. Dozens upon dozens of plants locked their doors. Permanently. Hundreds of thousands were thrown into the streets, losing their jobs and often-times their homes. Families were torn apart. By mid-1982, thousands had exhausted their unemployment insurance benefits. Many of the people I knew and represented were thrown onto the welfare roles. Many lost the means to feed and to house their children.

Canadians have experienced dramatic changes in technological, economic, political and social conditions that have recognizably altered the world in which we live. These changes have been no less fundamental than the Industrial Revolution of the last century. When the Commission was established, there was a need to devote time and resources to finding out what Canadians thought of these changes and how we should respond to achieve the future we wanted.

Canadians have been victimized by a recession over which we have had no control and to which we can see no end. We have undergone a progression of



emotions that have ranged from fear and insecurity to anger, and from loss of dignity and humiliation to despair. Our fears have been heightened by watching the rest of the world go through the same agony. We are not alone. We are all helpless. Soup kitchens, food lines, and unions of the unemployed have become daily reminders of the vulnerability of Canadians to severe structural change. And still, permanent jobs are disappearing. Our country, one of the richest in the world, seems incapable of stabilizing the economic and social environment. The human hemorrhage continues.

I was haunted by these concerns because I knew that the changes we were experiencing were more than just the result of a short-term recession. I felt a great deal of uneasiness about participating in such a process. The Canadian Labour Congress and the Government of Canada were at odds on almost every issue that faced the working people of Canada. There was virtually no dialogue on the major issues that confronted the main participants in our society. Nevertheless, I felt that the Commission's mandate was broad enough to encompass the views of those Canadians who are never asked what they think of our economic problems. Their voice needed to be heard in shaping the solutions to our problems. I came to the conclusion that it would be unthinkable not to have the labour movement represented on the Commission. I talked to many people whose advice I respect, first, within my union and, second, within the labour movement. Having received the full support of my membership, and the endorsement of the Canadian Labour Congress, I agreed to sit as a Commissioner.

In many ways, the experiences that have shaped me differ from those that have shaped the rest of the Commissioners with whom I have travelled across this vast country during two complete rounds of hearings. The majority of us, however, did have one thing in common — our concern was for the future, for what the country might become in the 21st century. We may have had differences of opinion, but we all had a sincere and deeply-held respect for the Canadian people.

### *Statement on the Final Report*

Not long after the start of our mandate, it became clear that the work of the Commission would be separated into two tracks. While the Commissioners concerned themselves with the day-to-day experiences of Canadians, the staff of the Commission embarked upon a research program that was noticeably divorced from the realities expressed by those who appeared before us. For the most part, this theoretical research was based on assumptions which I do not support.

The research has exposed for me two views that have been treated as a new orthodoxy: "self-reliance" and "market forces" became the constant litany. I resist the casual adoption of this language because it does not match our reality. This new economic orthodoxy assumes that: we are overly dependent; most unemployment is voluntary; we lack initiative; and that government spending is out of control. Yet, we are the people who work in Faro, on Little Cornwallis Island, in Hibernia and in James Bay. We are the people who

have developed the Canadarm. We are the people who gained the attention and respect of the world for the odyssey of one-legged runners.

The Final Report of the Commission states: "We have not come up with a single, simple, compelling message." I clearly heard a single, simple, compelling message: "*Canadians want to work.*" While the Report includes rhetoric about the priority of jobs, its research program and recommendations do not reflect a commitment to a full employment economy—a job for everyone who wants one. *Our number one objective is jobs.*

The mandate of the Royal Commission on the Economic Union and Development Prospects for Canada was to report and to recommend to Canadians on their economic future. Instead, it has produced a Report more preoccupied with our past. In many fundamental ways, the Commission's Report has done a great disservice to those Canadians who have shaped our nation. The economic philosophy of the Report is expressed in its Introduction:

*We seek a new relationship between the political system and the economy and society within which incentives will induce the making of choices compatible with social goals.*

I disagree fundamentally with this principle. Our social goals are clear. They have not changed. Indeed they should not change. Canadians want to work. *Our goal is to create jobs for those that have been deprived of employment.* At the same time, we want to take care of those amongst us who are incapable of caring for themselves. We have long accepted the moral and ethical responsibility to protect those least able to fend for themselves. This is the legacy of the Canadian experience. Our commitment is to full employment and to social justice.

The major concern in the current political environment should be to allocate our financial resources for the attainment of these social goals. *The task of economic management should serve social development.* The biggest single problem which threatens to retard both our economic and our social development is unemployment.

The continuous stream of lay-offs, plant closures and production cutbacks have caused unemployment to increase dramatically. From August 1981 to December 1982, total official unemployment reached 12.9 per cent. The official unemployment rate has been above 10 per cent since May of 1982, and by March of 1985 it remained at 11.2 per cent. When hidden unemployment and underemployment are added, the real level of unemployment is much higher. In March of 1985, Statistics Canada's *Supplementary Survey* showed that at least 270 000 men and women have given up looking for work. They are no longer counted as officially unemployed. Since 1982, approximately 700 000 full-time, permanent jobs have disappeared. Our younger workers, those under the age of 25, are particularly hard hit. By March of 1985, the official jobless rate for our sons and daughters had soared to 17.5 per cent. More than 300 000 jobs have disappeared for this age group alone.

We cannot speak of growth or recovery in an economy where so many of those for whom we have responsibility continue to be jobless. In this society,

our self-worth is still largely defined by a job. What will happen to a society where 35-year olds will hold a job for the first time? What will happen to their work habits? What will happen to our work ethic? What will happen to an economy whose spending habits are not driven by the formation of new family units, of productive employees and consumers? How many of we older Canadians will continue to stay in the job market to support our 30-year-old children? Can the word "growth" ever become a positive word to a generation that has no work? How many of us have looked into the eyes of our sons and daughters, our nieces and nephews, our grandchildren, and asked, "What will become of this lost generation?" How can we have a future if we waste it now in joblessness and despair?

For those of us who live in daily contact with the unemployed, the pressures of not being able to affect change have become intolerable. The growth that has been generated by our economy during the last three years is *jobless growth*.

From 1981 to 1983, unemployment has added one million more "new poor" to the ranks of poverty. Poverty is not a rural, regional or "those too lazy to work" problem. Poverty exists from one end of this country to the other. There were 967 000 poor families in 1983 and the majority of those, 557 000, lived in large cities. In poor families, more than one million of our children are being denied a decent upbringing.

Families headed by women have a far higher likelihood of being poor than families headed by men, and the numbers are growing. Of the total number of families headed by women under 65 years of age in 1983, more than 50 per cent were living in poverty, compared to 11 per cent for families headed by men. Close to one-third of all poor families are headed by single-parent women.

To be elderly, a woman and living alone also means to be poor in Canada. Almost 60 per cent of unattached women over 65 years of age are in that desperate situation. It's not much better for men — poverty has claimed 48 per cent of all elderly unattached males. There are 2 500 000 recipients of Old Age Security in Canada. In 1983, 1 500 000 had incomes below \$9000.

Poverty includes men and women of all ages, farmers and fishermen, the sick and the disabled, and the unemployed. Contrary to popular belief — large numbers of the "working poor" are men and women with jobs who don't earn enough to escape poverty.

In 1982, well over one-half of the heads of poor families worked, and nearly two-thirds of all poor families had at least one wage-earner. The problem was that they could not get full-time jobs with a decent salary. I am convinced that the only protection these men and women have is the minimum wage law. I fundamentally disagree with the view of the Commission's Report that such laws are simply "rigidities" and insignificant to improving the lot for the working poor.

By February of this year, total employment was back to slightly above the August 1981 level. However, the number of full-time jobs was still 150 000 below the August 1981 level. Permanent full-time jobs have been replaced by part-time jobs of unknown duration and low pay.



In the goods producing industries, close to 500 000 jobs were lost and only 200 000 have been regained. There are still 300 000 fewer jobs in goods producing industries than there were in August 1981.

*For youth, there has been no recovery of the jobs lost.* By March 1985, employment for workers under 25 years of age was still 300 000 lower than in August of 1981. The youth unemployment rate is 17.5 per cent.

The growth in joblessness of the last two years has occurred despite the strong growth in exports – which grew in volume by nearly 9 per cent in 1983 and by a dramatic 22 per cent in 1984. However, the domestic economy continues to be weak. *Greatly increased trade has not increased our levels of employment.*

I can speak personally of this failure by referring to the changes in composition of the Steelworkers' membership. The changes over the last half decade reveal fundamental structural upheavals. The mining sector, particularly base metals and coal, were among the hardest hit. There has been no recovery. (See Table 1.)

**TABLE 1 Mining Membership 1980–84**

Sector	Percentage Change
Iron mining	– 47.7
Copper	– 42.8
Silver	– 39.5
Nickel	– 44.7
Coal	– 33.1

The Canadian steel industry has also undergone significant work force loss. (See Table 2.)

**TABLE 2 Steel Industry Membership 1980–84**

Sector	Percentage Change
Basic steel and rolling mills	– 22.9
Steel wire and nails	– 23.6
Pipe and tube	– 19.2
Structural fabricators	– 31.2

There have also been important membership losses in the metal fabricating sector which consumes the production of the steel industry. (See Table 3.)

Several factors have led to these changes. The recession, new sources of foreign competition for traditional industries, and technological change are all moving us toward a more service-oriented economy. These changes are

**TABLE 3 Metal Fabricating Membership 1980-84**

Sector	Percentage Change
Iron foundries	-42.0
Steel foundries	-48.0
Hand tools	-40.0
Farm equipment	-53.7

eroding the traditional wage and job structure upon which our patterns of consumption, social opportunity and support have been built. The "middle class", as we have known it, is in danger of disappearing. Incomes are becoming more polarized. We will have even more poor, and more rich, with less and less in between.

In absolute numbers, our Union's membership has gradually returned to 160 000 individuals—the level of the late 1960s. But our new members have come largely from the lower wage service sector. New groups we have organized include security guards, restaurant and rest home workers.

How does the Commission see these problems being resolved? It has adopted a simplistic belief in "free trade" with the United States and with the rest of our trading partners. *This will not solve our unemployment problems.* The last few years have proven it. Nor will we be lifted out of our current and future problems by "getting the incentives right" and relying on the invisible hand of the market.

Real business investment in plant and equipment fell 9 per cent in 1982 and declined by a further 12 per cent in 1983, levelling off in 1984. By the end of last year it was over 20 per cent below the peak reached during the second quarter of 1981. At the same time, tax incentives to corporations, which by 1980 had reduced the federal corporate tax rate to 15 per cent of profits from 36 per cent, have had little effect on stimulating investment and creating growth over the last three years. In the 1950s, corporations paid 58 per cent of federal income taxes while individuals paid 42 per cent. In the 1970s and 1980s, *corporations had their share of federal taxes reduced to under 30 per cent. The share paid by individual taxpayers rose to over 70 per cent. Businesses need customers, not tax incentives.* As long as our industries can satisfy demand for products by operating at three-quarters of capacity, there is no need to expand, to invest or to create jobs.

Tax incentives have not encouraged or resulted in more jobs. For some, tax incentives may have become good politics, but they are not good economics. Indeed, it is this tax structure that is the underlying reason for the problem of underfunding experienced by governments today. Manipulating Canadians' behaviour through the tax system has not been successful. Many of the social objectives that the tax system was designed to achieve have not materialized and the revenue-raising capacity of the tax system has been seriously eroded. I see two reasons for this: slow economic growth and the unfairness of the tax system. The well-advised or the wealthy pay far less than their fair share. Major changes to the tax system are a necessity. Tax reform should begin

with the introduction of a minimum tax on high income earners. It is unacceptable to think that in order to have more economic growth we have to create more inequality.

I do not believe that we are over-governed and that the key to renewed growth and prosperity lies in a federal administration that will abandon Canadians to the whims of the market. Among the most forward-looking sections of the Report are those covering social support and human services.

The Report recognizes that:

*Since the overall level of social policy expenditures in Canada is low by OECD standards, there is no strong general case for attacking the deficit by reducing social expenditures.*

The recommendations propose a package of changes to our income security programs. The Report endorses a guaranteed annual income in the form of a Universal Income Security Program (UISP) as the most appropriate foundation for Canada's income security programs. I welcome this initiative as both a step in the direction of social justice, and a recognition of the importance of social support to our economic vitality.

The Transitional Adjustment Assistance Program (TAAP) would provide adjustment assistance for Canadians who have exhausted their unemployment insurance benefits. Through this program it would also be possible to assist workers to purchase equity in plants, or invest in other forms of community economic development projects. I do not agree with the proposal that funding for the program should be drawn from "savings" from the Unemployment Insurance program.

The proposed Unemployment Insurance "reforms" represent a reduction of benefit levels, and an increase in the qualifying period. This amounts to an outright attack on the unemployed. The victims should not be punished for their plight. The way to reduce the costs of unemployment insurance is to create jobs.

Furthermore, the packaging of the above proposals does not distinguish between income support programs and insurance programs.

Further, the Report identifies occupational health and safety as an area of importance and growing concern. The recommendation calls for:

*The federal and provincial governments to immediately consider the development of a comprehensive social insurance disability plan to deal with the longer-term effects of occupational health problems, as well as with other forms of disability in the working age population. This plan could be implemented either by expanding worker's compensation into a comprehensive disability scheme or by extending the present disability provision of the Canada and Quebec Pension Plans.*

This too is welcomed as it has long since passed that the needs of the disabled in Canada, regardless of cause of disability, have been met.

With respect to occupational training, increased attention is paid to encouraging on-the-job and job-related training. The recommendations call for a special wage subsidy for labour-force entrants who have not had other forms of vocational training or post-secondary education. In addition, the



recommendation is made to provide for a Registered Educational Leave Savings Plan. I disagree with this proposal and would opt instead for a levy-grant system on employers.

Recognizing that our children are the ones who must shape our future, access to higher education for low-income students becomes an area of special concern. The educational system is being starved through lack of funding. Deregulation of the fees structure is no solution.

I agree with the general recommendations on labour-management relations; however, I do so for different reasons and without endorsing all of the findings and comments. Collective bargaining plays a critical role in the distribution of income in this country. It determines, both directly and indirectly, the income of the vast majority of Canadians. I must express reservations about some of the Quality of Working Life experiments that have taken place. Furthermore, I reject the proposal of gain-sharing as a substitute for negotiated wage increases.

The Commission recommends that:

*Labour relations boards be permitted to create multi-employer and multi-union bargaining units when this is likely to facilitate the bargaining process.*

Our voice was heard in shaping these solutions.

The Report is obsessed with Canada's "competitiveness". There is no doubt that we should strive for economic efficiency. If competitiveness were our only goal, corporations would probably pay no taxes, we would ignore the environmental impact of economic activity and we would abolish social security. None of these objectives are acceptable to Canadians.

The drive for "competitiveness" almost always is an attack on wage levels. The competitive game is a game we cannot win. Someone, somewhere in the world, with enough starvation or repression, will underbid us. It is neither necessary nor desirable to encourage mindless wage-bashing.

The Report describes, sometimes eloquently, the growing phenomenon of global economic interdependence. Interdependence has the potential for developing international solidarity, co-operation and peace. I support the general description of the global environment in the Report, including its human, environmental, economic and political aspects. The danger of workers being pitted against other workers has been dramatically increased as a result of recent monetary and fiscal policies. Canadians have been placed in the position of destructive competition for shares of low-growth markets, made worse by global attacks on current wage levels. These conditions now threaten to destroy the international system of trade and finance established after the Second World War. This system is badly in need of reform. It is especially true, if it is to continue to encourage and assist the development of the countries of the Third World. The collapse of this system would be disastrous. Some of these sentiments are expressed in the Report and I wish to affirm them.

I disagree with the Report on the Third World debt problem. The Third World debt problem has not been resolved. Furthermore, it places insurmountable pressures on fragile economies when they are expected to repay

their debts both in the time periods and on the terms being dictated to them. The debt issue is not resolved and the problem will not go away. It also makes other problems worse. Third World producers are dumping goods on the world market as they desperately try to earn foreign currency to pay off interest and debt re-scheduling payments which have continued to mount. This undermines prices and intensifies the global wage squeeze, which in turn generates more and more protectionist pressures, so that the system is brought to the verge of collapse.

The Report makes much of the recent developments in U.S.-Canadian trade. Our increasing dependence on U.S. trade, however, should be seen as a sign of weakness and trouble in our economy, not as a major opportunity for growth. Trade with the Americans must continue. Furthermore, Canada can indeed be seriously harmed by some of the protectionist proposals being put forth in the United States Congress. *An even greater reliance on that imbalanced relationship in the form of a comprehensive Free Trade Agreement is, however, dangerous.* First of all, the current situation is highly artificial. The acceleration of exports to the U.S. in recent years is the combined outcome of a highly over-valued U.S. dollar and continued high real rates of interest in Canada. The spread in interest rates today is as high as it was in August of 1981 when the rate was 23 per cent. As the Americans turn to correct their huge trade deficit, Canada will not escape Congressional notice. Canada is second only to Japan in terms of a trade surplus, and even higher by total volume. The Report recommends addressing this by negotiation of a free trade agreement with the United States. I believe that free trade does not represent a solution to our economic problems. I believe in negotiated trade between nations, within the framework of multilateral agreements. *Unrestricted free trade with the Americans is a blind and imprudent act,* described by some as a necessary leap of faith. Negotiated, secure access to U.S. markets is something I support. However, the terms for access to Canadian markets must include production and employment guarantees, such as were secured in the Auto Pact, and since then embodied in Canadian-content regulations. These are included in the option of "managed trade" which I favour, but which the Report explicitly rejects.

There is an alternative to the free trade option and that is promotion of import substitution and a direct role for government in an industrial strategy. This does not have to mean that a bureaucrat in Ottawa picks the country's economic winners and losers. The Commission recommends free trade as a solution to unemployment and growth. The research work extensively and repeatedly claims that there will be an increase in income and employment as the result of free trade. What all the studies and computer simulations cannot tell us is when these presumed benefits are to flow and to whom:

*[. . .] in the long run, Canada would benefit substantially from bilateral free trade with the United States, particularly from access to the expanded, unrestricted market and from economies of scale.*

The surge in exports in the last two years has not solved our unemployment problem. Whatever gains may result will be diffuse and longer term, while the

pain is immediate and specific. A Camco Steelworker laid off in London asks: what is my future, where is my next job, and what support systems are available to my family?

On stabilization policy and unemployment, the fundamental problem identified by the Report is a highly abstract academic construct called the "NAIRU" (non-accelerating inflation rate of unemployment). This in plain English, is to say that there is a new "natural" rate of unemployment of 6.5–8.0 per cent. *Anything below 6.5 per cent is regarded as voluntary unemployment.* Canadians do not accept this. The unemployment rate of a society is a social and political choice; there is nothing natural about it. The current rate of unemployment of 11.2 per cent is unacceptable to all Canadians. Suggesting that approximately 1 000 000 men and women, 8 per cent of the work force, are "voluntarily" unemployed is ridiculous. Recommending that 1 000 000 Canadians should resign themselves to an unemployed existence is criminal. Endorsement of the NAIRU concept in the Report relegates Canadians to a twenty-first century of underdevelopment.

Finally, as for the Commission's discussions of constitutional matters and its recommendations in this area, I cannot associate myself with its views, nor will I comment on them. Matters in the constitutional arena are in too much of a state of flux in Quebec at this moment in our history to enable me to make any reflections that are of lasting value. Until the Quebec debate over the Constitution is more clearly defined I shall withhold comment.

### *Lament for a Lost Opportunity*

The research work of the Commission and the Final Report have provided the people of Canada and the Government of Canada with no better understanding of the problem or its solutions. Original research on the causes of our unemployment was not undertaken. As a result of its argumentation, the Report leads its uncritical readers to the conclusion that unemployment is not the major problem facing Canadians today, or even if it was, that there is nothing that government can do to resolve it.

Unemployment *is* the major problem facing Canadians today. The gap between the "haves" and the "have-nots" has continued to widen. The recession and the joblessness of many of us has accelerated the process of adding to the ranks of the poor.

The work of the Commission has fallen short of fulfilling its mandate. Many of the serious problems facing the next generation of Canadians remain unanswered or inadequately addressed. The "single, simple, compelling message" expressed by Canadians is reflected in the Papal Encyclical *Laborem Exercens*:

*Human work is a key, probably the essential key, to the whole social question. . . .*

The Report has endorsed market based fantasies as a solution to our nearly two million unemployed. Instead, I advocate the continued responsibility of government to manage the economic environment and to encourage new forms of popular participation in public institutions.



## John R. Messer

Economic man is an imperfect fiction created by economists. He does not exist as a whole person in real life.

Nor are nations born, nurtured and built as strictly economic entities. Left to economic determinism, it is not likely that Canada would exist today as a relatively independent, sovereign state. The north-south economic advantage would have prevailed, the tenuous east-west ties would have collapsed, and the history of Canada would have been much shorter. That this did not happen was the result of the exercise of political will—of the competition between political and social objectives on the one hand, with economic objectives on the other.

We live very much in a *political* economy; and I, for one, would have it no other way. It is in this context that I record a supplemental view to the Commission's Report. While there are appropriate references to the political role, the Report embraces the currently fashionable economic nostrum which judges market determinations as "good" and government interventions as "bad". In some cases I support the particular judgement. But I do not accept the general proposition that "the best government is the least government".

On this point, I find the arguments of my fellow Commissioner, Dr. Albert Breton, persuasive. I quote from his statement:

*... what does it mean to say that the mechanisms of democratic politics and those of economics are equally constraining? At its most simple, it means that there are, not one, but two broad arenas in which people seek to obtain the things which increase their well-being: markets and governments. Markets, when they are well-structured and competitive, do a good job over the longer term in allocating resources in ways that maximize the well-being of the population. That is a generally accepted proposition and one in which I strongly believe. What is less accepted, but an idea in which I nonetheless believe just as strongly, is that governments, when they are well structured and competitive, do as good a job as markets, and like them over the longer term, allocate resources in ways that maximize the well-being of people.*

With respect to the relationship between the two sectors and the division of roles, Dr. Breton says this:

*My own view of how modern societies work is that the assignment question is "resolved" through competition between governmental and market institutions and that that competition, in turn, is shaped and conditioned by the demands of the public and by the supply of entrepreneurial talent to each sector. Consequently, a growing government sector reflects first the fact that people want not only the things governments supply better, but also those things which governments provide differently than markets, and second, the fact that more aggressive and talented entrepreneurs have found their way in that sector. A declining government sector reflects opposite tendencies.*

On the whole, Canada has been an economy of markets and governments. Governments have actively intervened in the transportation, resource development, energy and agriculture sectors over time. While every

intervention has not always had positive results, we are, in my view, the better economy and the better country on balance.

I would go further. Whatever may be said for the market as the determinant of economic efficiencies, it is a singularly insensitive instrument in measuring social consequences. Not only is it appropriate for government to arbitrate those consequences; to do so is a prime political responsibility. And if, in exercising this responsibility, a government deems it advisable to curb the “freedom” of the market, that too is appropriate. Thus, I find myself at odds with some of the basic underpinnings of the Commission’s Report. In no section do I feel more strongly about this than the one which discusses agriculture.

### *The Family Farm*

I find the most logical focus for discussing the agricultural sector to be the primary unit of agricultural production – the family farm. Certainly one must examine markets and marketing, transportation and grain handling, research and development, land use, import replacement and other economic components. But the agricultural sector is more than simply the production, distribution and marketing of food products. As a society, we have a substantial investment in a particular mode of agricultural production: the individually-owned and operated family farm. Unless we are prepared to sacrifice that investment, it behooves us to examine our agricultural and economic policies as they affect the family farm.

There are those that imply that this focus is pure sentimentality. Not true. All that space between Canada’s major population centres is not a vacuum. Much of it is filled with farm families and small communities which serve farmers and farm production. When we talk about preserving the family farm, we’re talking about preserving jobs, communities, and all the infrastructure of schools, hospitals, power, roads and other services. We are talking about the Wheat Pools, of course, which have served Prairie farmers with such distinction over the past half century. But we are also talking about community co-operatives and credit unions, and small business people, such as farm machinery dealers and other entrepreneurs, who are important participants in the small farming communities across Canada. This is the family farm economy.

It is true that agriculture, in the national context, has shrunk in importance over time relative to other industries. But to say this overlooks its regional importance. In Saskatchewan, which I know best, agriculture is not only the king-pin of the economy, its family-farm base is the core of our way of life for urban as well as rural people. Of course, the family farm is no more a static entity than any other part of our economy. It has changed, and it will change, in response to economic and technological forces. But through all the changes of the past, and with all the changes in farm size, the basic nature of the production unit remains.

For these reasons, I find the discussion of the family farm in the Commission’s Report both confused and out of touch with reality. Although

many of the economic problems farmers face are the subject of comment, most are dismissed as cyclical problems which farmers have faced before. The question of growing farm size and an accelerated reduction in the number of farmers is disposed of as an economic necessity. I disagree with this view.

To take the Saskatchewan example, a myriad of public programs, federal and provincial, were put in place between 1946 and the present to assist family farmers to be more productive and to reduce costs. They have included the rapid extension of rural power, an improved road network, improved access to credit, farm machinery testing, tax relief, and the Land Bank, to cite only a few. These and other actions, of course, did not halt the process of farm consolidation and the reduction of the farm labour force. But they were public policy responses which improved farm viability and made the adjustment process less damaging to individuals and the community. I would argue, they also slowed the pace and severity of farm consolidation.

If the market is allowed to take its course in current circumstances, the wrong farmers will be lost. The most vulnerable farmers today are not the inefficient, the marginal, the bad managers. They are the young farmers who acquired their land and machinery at high prices, but who are among the most innovative and productive farm managers to be found. If the Report has its way, we would say, "Hands off, market forces are the best arbiter." Then we would lose some of our most productive farmers. True, efficiency will not be served.

The Commission's Report also fails to consider the alternative costs to society of moving, resettling, retraining and finding productive employment for the displaced farmer. Or, alternatively, the social and economic costs of swelling the ranks of the unemployed. Particularly in times like the present, these costs are high indeed.

The Commission's Report also appears to endorse accelerated urbanization. The costs of rural depopulation are not addressed, except to reject the idea that there are any special attributes associated with rural life. But surely these costs are real: in lost employment, lost investment, underutilized infrastructure, and resettlement costs. I would have a difficult time in my native province in dismissing these costs as unsubstantial.

The family farm is in greater jeopardy today than many believe it to be. The recession, present economic trends, high interest rates, the rising cost of inputs and lower product prices have all depressed the farm economy. The natural hazards, regional drought, flooding and pests, have added an additional squeeze. The resulting decline in farm land values has brought many farmers — particularly young and able farmers who entered the industry at the wrong time — close to insolvency.

That many of these events are cyclical, as the Report points out, makes them no less real for the farmers concerned. That the generic family farm has survived down-cycles in the past is also true, but irrelevant. I reject the conclusion that these are persuasive reasons to suggest that governments should simply permit survival to be determined by market forces. Public policy responses to assist with interest rates, loan restructuring and working capital requirements for many of these farmers are both appropriate and necessary.



With respect to the longer term development of the agricultural sector and the family farm, I find myself in full agreement with the Commission's recommendation for greatly expanded research and development. I will comment later on some specific areas which hold promise for the family farm of the future.

I would like now to turn to the Commission Report's discussion of some key areas of agricultural policy which will help shape agricultural production in the future: marketing arrangements, transportation and grain handling, and prices and input costs.

## *Marketing*

The individual farmer and the individual consumer fit well into the classic model of the free market. They each have minimal market power, compete freely with other producers/consumers in selling/buying food products. Unfortunately, other participants in the market fit less well. In transportation, processing and retailing, for example, those standing between the producer and consumer tend to dominate the market.

The historical fact is that the individual agricultural producer in Canada has had virtually no power in the market place. Left exposed, his cash receipts have been the residual sum remaining after processors, commission agents and retailers have taken their share of the end price. It was only through intervention, either through collective action of producers or through public action, that farmers have been able to gain even modest market power. The modesty of that power is clearly demonstrated by the fact that domestic food consumers in Canada enjoy the second lowest food costs, as a percentage of income, in the world. Only in the United States, blessed with a more favourable climate and a much more competitive food processing and retailing environment, do consumers fare better.

Producer marketing boards are a target of the Commission's Report. My argument with the Report is with both what is said and what is not said (or not said clearly enough). The Report correctly distinguishes between institutions which simply provide marketing muscle and expertise for producers of a particular product (for example, the Canadian Wheat Board) and those which, in addition, manage the supply of the product through quotas and other means. Yet, having done so, the Report by implication damns all marketing boards.

What troubles me in the discussions of supply-management marketing boards is the assumption that the other actors in food marketing—processors, wholesalers and retailers—do not engage in practices which affect supply and price. Let me cite two contrary examples in my home province of Saskatchewan.

Saskatoon and Regina are very similar food markets, in both size and location. Yet for several years, the price of a basket of groceries in Regina has consistently cost 10 to 12 per cent more than an identical basket in Saskatoon. The reason: the Regina market is dominated by a single large retailer, while two are battling to dominate Saskatoon. This no doubt benefits Saskatoon consumers in the short run, but when the chains sort out their

market share in Saskatoon — as they will — one can be sure that retail margins will rise to or above the Regina level. And because they will have eliminated some of their independent competitors, their market shares will be larger.

In another example, Weston and McGavin recently engaged in a price war in Saskatchewan which saw the price of bread drop below the cost of production. It is doubtful that Weston and McGavin were fighting each other, but rather were attempting to gain market share by forcing independent bakers out of the market.

The point is that these exercises in market power are designed to reduce, not enhance, competition. Furthermore, they demonstrate the power which the independent producer of, say, eggs, milk or poultry faces in marketing his product.

If it is supply management *per se* which the Report finds objectionable, why is there no criticism of supply management which is exercised, not through government intervention but through market domination? The drive to control supply, and therefore maximize prices and profits, is ever-present in our economy. One needs only look at the big three auto manufacturers. If there are too many cars, prices do not fall appreciably; production is cut back.

Similar examples in the food industry are not unknown. One can manage supply in two ways: create a government marketing board which can act on behalf of a number of small firms producing to quota, or reduce the number of firms so that in concert or by tacit agreement they can accomplish the same thing. The latter can happen and does happen. And one device which makes it easier to accomplish is vertical integration.

Having said that, I agree that there are some problems with supply management by boards as currently practiced. Among these, the capitalization of quotas is a major problem. Nevertheless, I cannot agree that all these marketing boards should be scrapped. I support the maintenance of Canadian production, both nationally and regionally. I support the equal opportunity of producers to access markets. I reject the idea that any insurance scheme could provide a satisfactory alternative.

In the larger sense, I find wholly unacceptable the implicit assumption in the Report that managing price and/or supply through economic power in the market place is entirely acceptable (whatever the effect on the consumer), whereas public intervention to provide some balance of market power for the farmer is not.

## ***Grain Handling and Transportation***

In its discussion of the Canadian response to export opportunities for grains (essentially, wheat), the Commission's Report deals with three main issues:

- The development and production of varieties other than hard, red spring wheat which will make Canada more competitive in changing world markets
- Inefficiencies in the country elevator system and the associated grain transportation system
- The resolution of the compensation issue pursuant to the abandonment of the Crow rate.

I support the Commission's view with respect to the first; I have reservations and disagreement about the apparent conclusions with respect to the second and the third.

The country elevator system as it has evolved is certainly not above criticism. I share the view that the technology exists which could reduce the historical shrinkage charge to farmers. It should be applied. There may well be changes in the grading system which could improve the efficiency of grain storage and movement.

But the Commission's Report stops there, without comment on the efficiency of railways in serving the country elevator system and the grain producers. The assumption appears to be that the *movement* of grain from shipping point to export position—now that the railways are to receive compensatory rates—will be highly efficient. How is that assumption to be tested? Grain producers and the elevator system have no transport options in Western Canada. There are no inter-modal alternatives. They are captive to a single transportation mode and to two giant, non-competitive rail companies.

Furthermore, one important thrust of these companies in improving their corporate efficiency in grain transport is to *shift* some of their costs onto others. Clearly, their *corporate* efficiency—and the visible costs of the rail transport of grain—will be improved if they move grain from larger, mainline terminals instead of dispersed country elevators.

But, surely, any useful analysis of the system must include *all* the costs, whether borne by the railways directly, or by governments, communities and producers in the form of larger farm trucks, road building and maintenance, fuel, employment, rural community decline, etc.

The Report's broad conclusion that "there is much room for reorganization of the entire system" may be true. But the sketchy and selective evidence considered, combined with the absence of a comprehensive analysis of benefits and costs, robs it of significance.

The failure to consider the key monopoly role of the railways in the system carries over to the Report's consideration of the Crow rate compensation issue. The elimination of the Crow Rate in its present form represents an abrogation of a fundamental historical concession, which farmers had received in return for the costs imposed on them by the other features of the National Policy. If this circumstance is not to be reversed, then the problem is to manage the decision so that the grain producers, and not others, reap the benefits to which they are entitled. That was the deal. And how those benefits are paid is crucial to fulfilling the deal.

The Commission's view is that freight rates should be fully compensatory. The economic argument as it relates to the primary producer is that this is the only way to remove market distortions which are disadvantageous to livestock production and processing in the Prairies. I will deal with that argument in a moment. First let me deal with one potential result of the Commission's proposal which is totally ignored in the Report: the imposition of grain freight rates which vary on a cost-per-mile basis, or variable freight rates.

If we turn over to the railways the determination of rates, there will be no brake on the railways' ability to reshape the country elevator system and the system of rural communities of which it is a vital part. By offering lower per-



mile rates from mainline points—as the CNR is already proposing—the process will be underway, and the shifting of costs will begin. If this reshaping of Western society is to occur, it should be a conscious decision by the people most directly concerned on the farms and in the communities of Western Canada—based on an assessment of *all* the costs—and not left to “market” determination managed by the railways. One great advantage of the statutory Crow rate was that it was neutral in its impact on shipping points except as to distance from export position. This equity cannot be preserved except through performance guarantees attached to compensatory payments by government to the railways, leaving the basic rate structure in position.

The main argument advanced in the Report for full compensatory freight rates—the distortion in location of livestock processing—I find unpersuasive. To give this argument credence, one must assume that:

- There are economic advantages to the producer to be derived from a major shift in the structure of prairie agriculture from grain into livestock.
- There is a market in North America and the world capable of absorbing a substantial increase in red-meat production.

The Report presents no evidence to support either of these assumptions. A study prepared for The Prairie Pools by Arcus Consulting Ltd., however, casts serious doubt on both. Arcus was asked to project, among other things, the impact on the livestock industry of the adoption of a “pay the producers” formula. Among Arcus’ key conclusions were the following:

*Increased livestock output (in Western Canada) is projected under the inelastic domestic grain demand scenario. . . . The effect of this increase is a small net gain in livestock gross revenues in Western Canada. . . . primarily from changes in the chicken and pork sectors. . . . offset in part by a decline in gross revenues of beef producers in the prairie area.*

*Livestock producers in the rest of Canada would suffer a decline in gross revenues in this situation.*

The Prairie Pools conclude that, because of the structure of the North American meat packing industry, it is doubtful there would be greatly increased slaughtering in Western Canada or, indeed, anywhere in Canada.

Citing Agriculture Canada figures, Roy Atkinson pointed out in his submission to the Commission that “beef consumption—on a per capita basis—on the North American continent is now some 20 per cent lower than it was only six or seven years ago.” (Roy Atkinson, Brief, November 28, 1983, p.11.)

It is my own conclusion that substantial shifts to greater production and slaughtering of livestock in Western Canada simply would not occur in the short or medium term, and they would not occur at all unless totally unforeseen new markets were found.

### ***Farm Prices and Input Costs***

The relationship between farm prices and input costs, currently central to the survival of many family farms, has not received adequate treatment in my

view. The facts are, of course, that over time farm prices have been much more cyclical than input costs; that the rising trend lines in input costs has been much steeper than has the trend line in farm prices. When farmers feel and say the problem is getting worse, they are right. The problem is *both* cyclical and secular.

There are perhaps three appropriate responses, one of which is identified in the Commission's Report. Farmers must become even more efficient, changing farm practices, continuing to adopt new technologies, all underpinned by substantial increases in research and development.

A second necessary response, particularly in the short run, is government intervention to reduce current input costs. The costs of fuel, fertilizers, herbicides and operating capital are the most critical. On the Prairies, at least, reductions in the price of farm fuels and lower interest rates for operating loans would seem to be the most practical measures for governments to adopt.

A third possible, if less desirable, response would be government action to support prices. For export commodities like grain, there are many attendant problems in addition to the required expenditure of public funds. But, while I do not recommend this course of action at this time, I would point out that the United States has been heavily involved in support payments to grain farmers for many years, and the European Economic Community even more so. These are our competitors in grain export.

The Commission's Report considers stabilization programs only as a possible substitute for marketing boards, which they are not. A number of stabilization programs are in place in Canada, for example, federally for grain farmers, and in some provinces for pork producers. They are important in the context of dealing with the volatility of prices and production in agriculture, not because they add significant new resources, but because they help even out cash flow. They should be improved and extended to producers of other agricultural products on a federal or federally-approved basis for provinces to administer.

### ***Access to Capital and Intergenerational Land Transfer***

The Commission's Report is correct in its conclusion that farmers are disadvantaged in their access to capital under terms appropriate to the risks and variability of cash flow typical of the farm enterprise. It recommends, without being specific, the retention of special credit schemes for agriculture. Presumably this means the Farm Credit Corporation, since the Report suggests that programs such as the Saskatchewan Farm Purchase Program and Ontario's Beginning Farmer Assistance Program have not been effective. No evidence to support the latter judgement is presented.

What is missing here, in light of the current pressures on farmers, is any reference to the need for the restructuring of debt, particularly for those young farmers who entered the industry or expanded at the height of land prices. No special credit programs currently in place fill this need. Nor can

we expect it to be filled by commercial credit institutions. Again, I would argue, this is a role for government which is both appropriate and necessary. Action is urgently needed.

On the question of intergenerational land transfer, the Report recognizes the problem, but again, is non-specific in its recommendations. I would place much greater emphasis on the problem than the Report appears to do, particularly because it compounds the already severe capital accumulation problems of a highly capital-intensive industry. To recapitalize the land resource every generation is a very costly and increasingly unworkable way to provide for the retirement of the older generation.

Yet the impetus for farmers to look to land accumulation as the way to provide for retirement is very strong. Existing alternatives are few. The Canada Pension Plan is inadequate, both because of its level and because many farmers would fail to qualify for maximum contributions every year. Retirement Savings Plans look less attractive than land to most farmers because, historically, the appreciation in land values has provided a more attractive return. Nevertheless, better solutions should be sought. The Land Bank alternative, despite the controversy surrounding it, has much to commend it. Perhaps in time it will become more acceptable to the farm community.

I would like to see other, more innovative approaches explored. For example, why not a government-sponsored contributory retirement plan for farmers similar to that available to many employees in the private and public sectors? It would need to be flexible to relate contributions to the variability of farm income. It would need to be locked in to ensure its application to retirement. It would require some measure of matching contributions from government to make it attractive. But, if successful, it could lessen appreciably the farmer's felt need to accumulate land as his only retirement security. This would lessen the pressure on land prices when farm incomes are high. It would permit more flexible arrangements for land transfer on retirement, which could improve the chances of the son or daughter or other young farmer taking over. It would make a direct contribution to maintaining the viability of the family farm.

On these two issues—access to capital and intergenerational land transfer—I agree with most of what the Report says. It simply does not say enough.

### *The Family Farm of the Future*

I have attempted to make a two-part case: first, that any analysis of the Canadian agriculture sector must be sensitive to the continuity of its family-farm base on both economic and social grounds; and, second, that the continuity of the family farm and its rural community base will require much stronger government participation and presence than the Report calls for.

This participation and presence is crucial, whether one looks at maintaining and improving the resource base, developing the needed research and development capability, increasing export opportunities, making marketing



agencies more effective (with or without supply management), providing more and better income stabilization programs, or dealing with other cyclical problems which create periodic crises in agriculture.

Given the needed public policy responses, the family farm of the future can make an even greater contribution to higher productivity in agriculture and to rural social and economic development than it has in the past.

In the process, the family farm will assuredly change, and the transition will not always be easy or simple. But those changes will include:

- greater emphasis on the management of the farm enterprise, including widespread adoption of management technology
- higher capitalization (although not necessarily in land)
- a more intensified use of the land base
- greater diversification (although not necessarily on individual farm units).

There will be no single model for the family farm in the future, any more than there has been in the past. The nature of the land resource, changing demand, marketing opportunities and other factors will continue to shape individual enterprises. Increasingly, however, entrepreneurship will determine who prospers and who does not. Management skills, informed risk-taking, the adoption of new technology, and adaptation to changing conditions will be key factors.

As more intense cropping practices are adopted (for example, continuous cropping), and as a greater variety of product options becomes feasible through research and market development, the push toward ever greater land accumulation will diminish in many farming areas. Already a number of farmers in the grain belt have concluded that their present land base is sufficient. This trend will become stronger. New techniques and more intensified land use will, however, increase capital requirements, and the availability of debt capital on terms appropriate to the nature of the farm enterprise will continue to be a central need.

Diversification will become much more sophisticated than the traditional mixed-farm model. It is likely to involve greater variety in crops on the one hand, and greater diversity among specialized enterprises on the other. Livestock production in the form of the traditional cow-calf enterprise is likely to give way to more specialized activities geared closely to markets.

There will be fewer farm units, but the pace of consolidation will slow. Rural communities will continue to change, but many will survive and some will grow. And the basic rural social system will continue to serve the farmers and their families in an evolving fashion.

This vision, and all it implies, can be reality if policy-makers in Canada frame their agricultural policies, not on a narrow economic analysis and a commitment to "free market" solution, but on a holistic analysis of social and economic benefits and costs. If they do, the agricultural sector will continue to lead the others in productivity. If they do, the Canadian economy will perform better. If they do, Canada will be a better place for all of us.

# Laurent Picard

## Acknowledgements

Readers will note that I have borrowed heavily from Bruce Scott's chapter in *U.S. Competitiveness in the World Economy*, edited by Bruce Scott and George C. Lodge. The same is true of *The Japanese Industrial System* by Charles I. Macmillan, by far the best and most comprehensive treatment of the Japanese industrial system that I have read. Victor C. Clarke, former Vice-President, Corporate Planning and Development, Canadian General Electric, and Professor Morty Yalovsky of McGill's Faculty of Management will recognize their substantial contribution. I was also very impressed by the paper written for this Commission by Professor Richard Harris of Queen's University, Department of Economics. The errors and misrepresentations are obviously mine.

\* \* \*

*Mr. Tomès.* Sir, we have reasoned upon your daughter's distemper; and my opinion, as for my part, is that it proceeds from a great heat of blood: so I'd have you bleed her as soon as you can.

*Mr. Des Fonandrès.* And I say that her distemper is a putrefaction of humours, occasioned by too great a repletion, therefore I'd have you give her an emetic.

*Mr. Tomès.* I maintain that an emetic will kill her.

*Mr. Des Fonandrès.* And I, that bleeding will be the death of her.

*Mr. Tomès.* It belongs to you indeed to set up for a skilful man!

*Mr. Des Fonandrès.* Yes it does belong to me; and I'll cope with you in all kinds of learning.

*Mr. Tomès.* Do you remember the man you killed a few days ago?

*Mr. Des Fonandrès.* Do you remember the lady you sent into the other world three days since.

*Mr. Tomès.* (To Sganarelle) I have told you my opinion.

*Mr. Des Fonandrès.* (To Sganarelle) I have told you my thoughts.

*Mr. Tomès.* If you don't bleed\* your daughter out of hand, she is a dead woman.

*Mr. Des Fonandrès.* If you do bleed her, she'll not be alive a quarter of an hour hence.

Excerpts from *Love's the Best Doctor*, a comedy by Molière. Act II, Scene IV. *Molière's Comedies*, vol. 2 (J.M. Dent & Sons Ltd., London, 1929) pp.63-64.

\* \* \*

\*Read: Cut the deficit.

This is not a minority report, but a supplementary note. With the give and take usually common in trying to develop a consensual position, I totally

support the recommendations of this Report. But given the very broad mandate of this Commission, it was impossible in the main text to express or review some processes of analysis that were too specific. I have decided to write these brief notes on the process of strategy formulation because I was somewhat disturbed by the way the problem of an industrial policy is generally stated and debated publicly.

I believe that the way the debate on that question has developed in the past four years is often futile and dysfunctional. It is too often stated in terms of extreme positions, one being taken by the non-interventionists and the other one by the "picking winners and losers" theorist. This debate, which started in the U.S. a few years ago, has really created an almost irrelevant and misleading forum. I think this has some implications for the interpretation of the recommendations of this Commission concerning an industrial policy for Canada, recommendations which I have already said that I support wholeheartedly. Hence, I should like to comment on the process of that public debate and to initiate what appears to me a necessary review of the structure of the debate itself.

I have divided my notes into four main parts: first, a review of the polarization of the debate on industrial strategy and its misleading consequences; secondly, an overview of the concept of strategy, particularly related to some misconceptions concerning what a strategy is all about; thirdly, a review of the Japanese, the NIC and the near-NIC national strategies; and finally what all this means for Canada.

It all started with a feeling of *déjà vu*. At the very beginning of the public audience-symposium-colloquium process of this Commission and right through to the end, the problem of the Canadian industrial policy has been described in an extremely polarized fashion. One side, which could be described as a Keynesian perspective of what the role of the state should be, was opposed to the Adam Smith view. One can look at it in terms of intervention versus non-intervention or in different terms: that is, in terms of the market as a regulating mechanism as opposed to the government as a regulating mechanism. These positions have been described as if they were opposed, conflictual, contradictory and totally polarized.

The crunch really came for me when, at a symposium in a Canadian university, an economist described his view that the redistribution of income was an inefficient way of managing an economy, and that basically, for every dollar raised through taxation and redistributed, the efficiency was somewhere between 65 per cent and maybe 35 per cent. (I don't remember the exact figure.) This means that of every dollar raised and redistributed, only 35 cents to 65 cents were really efficient; the rest was lost in the cost of distribution.

If that was the case, and given the fact that Western industrialized countries, and specifically Canada, have long since made the decision for redistribution of income so as to attain some degree of equity and fairness, then, I thought, the question became not a question of distribution or no distribution, but more specifically, of studying the process and the mechanics of redistribution of income so as to improve their efficiency.



If the real cost of redistribution is 45 cents or 55 cents or 65 cents per dollar, I thought, maybe there is a way of improving that by 10 per cent, 15 per cent, or 40 per cent. And, I naively asked the economist who made the point: "Could you elaborate on that and explain to me how you measure the efficiency of redistribution, and on what basis you come up with figures of that level?" The answer came very fast: "Adam Smith has said all of that 200 years ago." Surely the question was naïve, but the answer was obviously brutally simplistic and ideological.

Despite my obvious lack of training in economics, or maybe thanks to it, it struck me very early in the process of the debate that these were not useful ways of analysing and developing a national strategy. It appeared to me that no more than you can critically evaluate the validity of Euclid, Lobachevsky or Riemann geometries, by staying inside the structure of any of these geometries, you cannot resolve the problem of developing a strategy by staying inside an interventionist or non-interventionist, Keynesian or Smithian theory. These might be useful abstractions to help clarify decision, but one would need something like a metaeconomics science to critically evaluate their usefulness in a given context in the same way that we have to work at the level of a metageometry to review critically and use each geometry in a useful fashion. The debate about the validity of the different geometries raged fifty or sixty years ago, and one philosophy professor told me very simply and very candidly that his unassailable position was that the Euclidian geometry was more perfect than the others because geometry deals with the continuum, and the Euclidian continuum is more homogenous than the Riemann or the Lobachevsky continuum. If Einstein had agreed with that philosopher's view, the theory of relativity would be a museum piece, or maybe it would not exist at all.

All through that debate, as I said, I had that feeling of *déjà vu*. I was wondering "Why? What is the origin of that feeling?" when I suddenly remembered a time long ago, when I was very much interested in the history of Europe and France at the end of the nineteenth century. After the Napoleonic wars, the students and military academics in France debated for thirty years the different merits of the offensive and defensive approach in war, based on the Napoleonic campaigns, and the debate raged with one school of thought claiming that the defensive was the best approach, and another school of thought replying that the offensive was the best defensive.

During that time, the Prussian generals were also laboriously studying the Napoleonic campaigns and were developing a strategy similar to the 1805 strategy of Ulm in the Austerlitz campaign, when Napoleon, scarcely firing a gun, defeated the Austrian army of General Mack. The Prussians developed the Moltke strategy, which they used to encircle and defeat the French army at Sedan in 1870, giving the *coup de grâce* to the Second Empire, without a major battle. I understand that some people still consider this particular debate in the French military academies to be of an extremely high and stimulating intellectual quality. *But what is the bottom line?*

That was the feeling of *déjà vu* that I had when I was hearing the ideological debate raging about the role of the market or the role of the state

in developing national strategies. Let me say that ideology or theory are bad advisors in a strategic situation.

There was a parallel debate on the question of whether economics was dependent on political science, as a superseding doctrine, or sociology, or the other way around, but I have always found these discussions fruitless and futile. To develop a national strategy, one has to keep in mind the economic, social, technological, and political dimensions, not one of them superseding the other, but all throwing different lights at different angles on a unique object.

The game, then, is competitiveness, and so let me say a few words about strategy. First of all—and it should be so well known that I wonder why it should be repeated, but it obviously has not been integrated into the thinking of many people who talked to us about strategy—a strategy has a global purpose; *in any implementation of a strategy there are bound to be tactical mistakes*.<sup>1</sup> I have heard it said about the Japanese that they have made a number of mistakes. Their investment in steel twenty years ago is considered a mistake, and that mistake “obviously” disqualified any attempt to develop a national strategy. Even if that was the case, and I pretend that it is not, this would not in any way weaken the role of a strategy in the economic development of Japan.<sup>2</sup>

As I have said, the strategy of Japan, what we could call the “targeting strategy” of Japan, has been an incredible success. To say that some part of it has been a “flop” is not an indication that the strategy itself is not good. One has to look only at the result of the development of the Japanese economy in the last twenty years to see that surely something was done right.

What was the strategy of Japan, broadly defined?

First of all, after the war, Japan became involved in soft industry sectors like textiles and in a lot of cheap imitations. As this approach succeeded, in a second phase the Japanese moved into the heavy-industry sector, investing in shipbuilding, steel, aluminum, cars, etc. As this strategy became very successful also, they moved to a third sector which is the high-technology, high-income/sensitive, high-value/added sector viewed in a global context of international trade. Up to now, therefore, there have been three phases in that strategy.<sup>3</sup>

I need not give details on the results: it is obvious to anybody who reads the newspapers or the economic magazines that this strategy was an incredible success and even one threatening to the Western world. In the development of its strategy, as Japan moved from one phase to the other, it tended to decentralize to other countries, by subcontracting and by making external investments, some elements of the previous phase of its strategy. For instance, as the Japanese were moving into the heavy-industry sector, they started to decentralize towards the NICs part of their light-manufacturing industry. Now, as they move towards high technology, they have been investing in and supporting shipbuilding in Korea, Hong Kong, Singapore, and other areas. Moreover, as these nations are moving into heavy industry, they have started the process of investment and decentralization towards the near-NICs to export the first phase of their industrial development.

This strategy of targeting has been highly successful for Japan, and though it is too early to say, it seems that it is showing substantial success for the Group of Four. Why? Let me use a metaphor to explain. A corporation organized along a divisional structure can have and manage an integrated strategy across its organization, despite the heavy competition among divisions that usually exists in a successful corporation.<sup>4</sup> On the contrary, in a conglomerate, the basic strategy needs to be developed by each of its parts. The divisions or the parts of the conglomerate are so different and so autonomous that each one needs to develop its own strategy, and the strategy of the whole is, in part, derived from the strategies of the parts. To apply that metaphor, Japan is like a divisional organization. It has a homogeneous population, a highly homogeneous and cohesive system of values, an authoritarian political structure, and on top of these, a language and an insular mentality which protects it from the Western world's marketing invasions. It has also developed a deep dedication to the export markets, based on the fear generated by its lack of natural resources, and it enjoys a very large domestic market; these are also elements in its success. This gives the Japanese the chance, despite, or thanks to, the very tough competition existing among industries and among companies, to develop an integrated strategy, managed through a complex structure of consensus development, and to use targeting most successfully.

To define the last phase of their strategy, that is the high-technology, high-income sensitive development that they started 15 years ago, the Japanese did exactly what any firm does: they carried out global market research to find what the growth areas were.<sup>5</sup> The Japanese did this in terms of the global system, that is, in terms of the interdependence and the internationalization of markets; and they chose as a domain to target the income-sensitive product or, in other words, the product for which demand increases strongly with the increase in the global standard of living. That has been their strategy and in that they have been very successful. It is also the strategy that most successful firms follow if the environment permits.

What does this mean for Canada and its industrial policy?

I have indicated why it was possible to develop a very coherent strategy of targeting in Japan. That is not possible in the same way in the United States and Canada because of the social, political and legal contexts. The different institutions and the different governments are too autonomous to hope to use a divisional model for developing a strategy. The metaphor applying to Canada and the United States is much more that of the "conglomerate". And a strategy which is possible for Japan or somewhat similar nations like Korea, Singapore or Hong Kong is not a strategy available *in the same way* to Canadians or Americans. Moreover, Canada lacks a very large market to start with.

Consequently, the strategy of choosing "winners" or "losers" or, to express it more accurately, the strategy of targeting, which is available as a strategy for Japan, is not available in the same way for a Canadian or an American political system. We have to find something else.

Because the strategies available to countries like Japan are not applicable *in the same way* in a Canadian or North American context, the temptation



has been for many to deny that one of the reasons for Japanese success is their implementation of explicit strategies. That is, again, a futile and possibly a destructive approach. The Americans denied for a long time the possibility of success of guerilla warfare in Vietnam because they were confident in their resource-driven strategy and were not in a position to develop a guerilla strategy. The result is history.

With each increase in international trade—it increased by about 10 per cent last year—the stakes in the export market get higher, the number of players increases, and the competition becomes even fiercer. But most important, Japan and some Asian countries, by questioning the validity of the conventional interpretation of the Ricardian theory of comparative advantage, have shaped a new form of competition and have somewhat reshaped the nature of international trade.

The many recommendations of this Report on free trade, education, the incentive system, macro-economic policy, resource management, and the social support system describe the essentials and form the basis of a strong national strategy for Canada.

## *Conclusions*

Many years ago, Canadian General Electric started a process to study the possibility of moving from a broad product-line base confined to the Canadian market, to a world mandate and a rationalization strategy. I understand that from the time Canadian General Electric decided to look at the possible new strategies and the time they were in a position to start to implement them in the corporation, it took four years. It should not be expected, then, that this Royal Commission could, in a year and a half to two years, define a complete strategy for the country.

Targeting is not an available strategy for Canada today. Too much has still to be understood before we can properly evaluate that option. As indicated in this Report, we should have a tilt towards high technology and export, but stop there for the moment. However, we should remain attentive to any recommendations which could help to reinforce our industrial base. We should constantly remind ourselves that the “targeting” debate is far from being closed at this time, and that strategy formulation and implementation are fundamentally search processes which are in perpetual evolution.

## *Notes*

1. I always remind my students during my course on strategy that to win the Stanley Cup in the National Hockey League, a team has to win four games out of seven, not four out of four. If one were to follow the way that strategy is often evaluated and decide that a strategy is not good because something was lost, because one of the products involved (e.g. the IBM PC Junior computer) has not been a success, it would be tantamount to saying that to really win the championship of the Hockey League, you should not lose one game during the whole season. The IBM PC Junior might have been a bad tactical mistake or might have been mismanaged or might have been a very good decision involving risk, hence the possibility of losing, which is what business and good strategy are all about. It is much too early to say.

2. The English have a very good way of describing that when they talk about someone “who won all the battles but lost the war”. Surely if someone “won all the battles but lost the war”, the guy on the other side “lost all the battles but won the war”.
3. Let me say clearly here that I am not suggesting that the Japanese defined at the start a three-phase strategy. Their strategy did evolve—as does any strategy—as their successes and defeats indicated, and as the world environment changed. Developing a strategy and implementing it are continuous “search processes”. Despite the fact that some Japanese policy makers or policy analysts deny that they have looked for high-value/added but concentrated on high-income/sensitive, high-technology products, it is clear that in the long term these products will also be the high-value/added products.
4. See Waterman and Peters *In Search of Excellence*. A highly successful company usually enjoys a fierce internal competition, which is one reason for its success. Again, the debate to try to resolve the conflict between consensus and competition in the Japanese decision-making process is a futile exercise. Consensus and competition are not conflicting, but complementary, elements in a successful system.
5. Again, let me say that I am not pretending that the Japanese “hired a management consultant” and asked for world marketing research. I am really talking about a very large process, not necessarily co-ordinated, involving thousands of people and organizations, which developed into a relatively explicit and precise set of strategies. (see Henry Mintzberg and Alexander McHugh: “Strategy Formation in an Adhocracy”, in *Administrative Science Quarterly*, June 1985. Another reference would be Bourgeois III and Brodwin: “Strategic Implementation: Five Approaches to an Elusive Phenomenon”, *Strategic Management Journal*, Vol. 5, 1984, pp. 241–264.)

## Jean Casselman-Wadds

It seems to be unanimous that reform of the Senate is desirable. I agree entirely. However, I do not agree that the solution is election of Senators. On the contrary, I fear that this recommendation has only the advantage of being dramatic. Although election of Senators has supporters, in my opinion, not enough thought has been given to their responsibilities after election.

Very little concern has been expressed for the vast increase in election costs. These are already horrendous and, I believe, part of the cause of public disillusionment with governments generally. This disillusionment would increase if election costs doubled and another layer of promises and possible contradictions were presented to voters. If senatorial electioneering were not aggressive and purposeful, it would be disappointing and voters could well be confused as to the purpose.

If elections occurred—either by choice of the Prime Minister or lack of confidence in the government—in close succession, as has happened in the past, senatorial electioneering would either be repetitive or extremely partisan. A Senate overwhelmingly supportive of the party in power would very likely be the result, the very situation which has existed. Political patronage might well increase, leading to still further discontent with government.

Unless the responsibilities were increased and clarified, the behaviour of the Senate might remain the same, unless the desire for re-election created a demand for more responsibility and power. In this case, governments would be involved in time-consuming reforms of the Constitution. This would distract from concentration on governing and attention to the immediate economic and social problems. Again, this is the very situation we wish to correct.

Election of the Senate would require such planning and negotiating that even its most enthusiastic supporters admit that it is a solution for the distant future. We have examples from other countries that going through the election process in itself does not guarantee high calibre of participation.

I would prefer laying this recommendation aside and concentrating on what would seem to me to have more immediate prospects of results. Since better co-ordination in the workings of provincial and federal governments seems to be another unanimous goal, I would prefer a broader-based system of appointments to the Senate which would include recommendations from a variety of sources, including provincial governments. Coupled with this, I would recommend mandatory attendance, with replacement automatic after a stated period. In the past, Senate Committees have done very worthwhile work, not always fully recognized and appreciated. These should be given more responsibility and more prominence.

I believe our system of appointment still has merit, and itself could be reformed quickly! I believe the Prime Minister should be supported by a Senate Appointment Advisory Council. The Council would draw up lists of meritorious candidates by province and pay particular attention to a variety of socio-economic considerations to ensure a broadly representative set of candidates. Appointments based on recommendations from a broader process



would likely be of more local origin and could overcome some of the isolation felt by certain regions and socio-economic interests. The Prime Minister would appoint the Council, in consultation with the Official Leader of the Opposition, at the outset of the government's mandate. The Prime Minister would not be restricted to the nominations list but would be guided by it.

It is quite clear that the Senate should be reformed. I believe that the incremental steps I am proposing are in the right direction and have the benefit of being practical. Other reforms would likely evolve once a real determination is shown to recognize the Senate's potential contribution to Canadian society. If it is important, let us do it now.



## APPENDICES

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## **Orders in Council and Exchange of Letters with the Prime Minister**







PRIVY COUNCIL

Certified to be a true copy of a Minute of a Meeting of the Committee of the  
Privy Council, approved by Her Excellency the Governor General  
on the 5 November, 1982

The Committee of the Privy Council have before  
them a report from the Prime Minister, the Right  
Honourable Pierre Elliott Trudeau, submitting:

That Canada is a country of tremendous  
opportunity, committed to the sustained  
economic and social progress of its  
people, to the reduction of economic and  
fiscal disparities between regions, and  
to a fair distribution of the advantages  
and burdens of national development;

That significant changes are occurring  
in the world economy, particularly in  
the sphere of industrial activity, the  
utilization of natural resources and  
movement of capital within and among  
countries, changes which will have  
important consequences for Canada;

That existing economic relationships  
among countries and among individuals  
and groups within countries are characterized  
on the one hand by increasing interdependence  
and at the same time by intensified  
competition;

That to respond to the challenges of  
rapid national and international change  
in order to realize Canada's potential  
and to secure sustained economic and  
social progress, it will be of importance  
to achieve greater understanding of the  
aspirations of the regions of Canada,  
greater co-ordination between actions of  
governments in Canada and greater support  
for the Canadian economic union.

Therefore, the Committee of the Privy Council,  
on the recommendation of the Prime Minister, advise that  
the Honourable Donald Stovel Macdonald together with  
such other persons as may be named from time to time be  
appointed Commissioners under Part I of the Inquiries

- 2 -

Act to inquire into and report upon the long-term economic potential, prospects and challenges facing the Canadian federation and its respective regions, as well as the implications that such prospects and challenges have for Canada's economic and governmental institutions and for the management of Canada's economic affairs.

The Committee further advise that the study include an examination of and a report on:

- (a) the appropriate national goals and policies for economic development, including consideration of the following:
  - trends in labour market requirements and conditions;
  - developments in the supply of raw materials, including energy sources;
  - capital requirements and the cost structure in a highly competitive, technologically-sophisticated and interdependent world environment;
  - trends in productivity, standards of living and social progress;
  - industrial adjustment and growth;
  - regional economic development opportunities and constraints in a national economic framework;
  - the integrity of the Canadian economic union as it relates to the unity of Canada and the ability of all Canadians to participate in increased economic prosperity;
- (b) the appropriate institutional and constitutional arrangements to promote the liberty and well-being of individual Canadians and the maintenance of a strong and competitive economy including consideration of the following:
  - means for improving relations between governments, business, labour and other groups in Canadians society;

...3

- 3 -

- the appropriate allocation of fiscal and economic powers, instruments and resources as between the different levels of governments and administrations;
- changes in the institutions of national government so as to take better account of the views and needs of all Canadians and regions, and to encourage the further development of the Canadian economic union.

The Committee also advise that in pursuing such inquiry and preparing the report, the Commissioners proceed by reference to the following principles:

- (a) the Canadian economy is founded on the enterprise and productivity of individual Canadians supported by a unique mixture of public and private sector activity that reflects the traditional values of Canadian society;
- (b) Canadian economic policy must be assessed in the context of its relationships to Canadian political and economic independence and to the broader aspirations of Canadians as must be reflected in the responsibilities of governments;
- (c) the Government of Canada has the primary responsibility for managing the national economy, for encouraging reasonably balanced economic growth among the various regions of the country and for ensuring that fiscal disparities among provinces are reduced, while at the same time the provincial governments also have important responsibilities in the development and carrying out of economic and social policy;
- (d) the report should take account of, and respect, the spirit of the Constitution of Canada and assume a continuing Canadian federal structure not significantly different from its present form.

The Committee also advise that the Commissioners:

...4



1. be directed, within the ambit of their work, to seek the views of all provincial and territorial governments as well as interested Canadians from all walks of life and all regions of the country;
2. be authorized to establish such advisory bodies of prominent Canadians as they deem desirable to assist them in the examination of any aspect of their terms of reference;
3. be authorized to adopt such procedure and methods as they deem appropriate for the proper conduct of the inquiry;
4. be assisted by the officers and employees of the departments and agencies of the Government of Canada as may be required for the conduct of the inquiry, particularly in having access to written material;
5. be authorized to sit at such times and in such places in Canada as may be required;
6. be authorized to exercise all of the powers conferred upon them by section 11 of the Inquiries Act;
7. be authorized to engage the services of such staff and technical advisers, including counsel, as they consider necessary or advisable to aid them in the conduct of the inquiry at rates of remuneration and reimbursement as may be approved by Treasury Board;
8. be authorized to rent office space and facilities for public hearings in co-operation with the federal Department of Public Works as they may deem necessary at such rental rates as are consistent with the policies of the Department of Public Works;
9. be authorized to publish special studies as may be appropriate from time to time;
10. be directed to submit their report to the Governor in Council with all reasonable dispatch but no more than three years from now;

...5

- 5 -

11. be directed to file with the Dominion Archivist the records of the inquiry as soon as reasonably may be after the conclusion of the inquiry.

The Committee further advise that the Honourable Donald Stovel Macdonald be the Chairman of the Commission.

CERTIFIED TO BE A TRUE COPY - COPIE CERTIFIÉE CONFORME



CLERK OF THE PRIVY COUNCIL - LE GREFFIER DU CONSEIL PRIVÉ





Certified to be a true copy of a Minute of a Meeting of the Committee of the  
Privy Council, approved by Her Excellency the Governor General  
on the 25 November, 1982



PRIVY COUNCIL

The Committee of the Privy Council, on the recommendation of the Prime Minister, advise that the following persons be appointed Commissioners under Part I of the Inquiries Act, of the Royal Commission on the Economic Union and Development Prospects for Canada, established by Order in Council P.C. 1982-3438 of 5th November, 1982:

The Honourable William M. Hamilton  
Vancouver, British Columbia

Mr. Daryl Kenneth Seaman  
Calgary, Alberta

Mrs. Mary Angela Cantwell Peters  
St. John's, Newfoundland

Mr. E. Gérard Docquier  
Toronto, Ontario

Mr. Clarence Lyle Barber  
Winnipeg, Manitoba

Her Excellency Mrs. Jean Casselman-Wadds

Mr. Michel Robert  
Montreal, Quebec

Mr. Albert A. Breton  
Toronto, Ontario

Dr. Catherine T. Wallace  
Fredericton, New Brunswick

The Committee further advise that Mr. Gerald Godsoe of Halifax, in the Province of Nova Scotia, be appointed Executive Director of the Commission.

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CLERK OF THE PRIVY COUNCIL - LE GREFFIER DU CONSEIL PRIVÉ



PRIVY COUNCIL

Certified to be a true copy of a Minute of a Meeting of the Committee of the  
Privy Council, approved by Her Excellency the Governor General  
on the 25 January, 1983

The Committee of the Privy Council, on the recommendation of the Prime Minister, advise that the following persons be appointed Commissioners under Part I of the Inquiries Act, of the Royal Commission on the Economic Union and Development Prospects for Canada, established by Order in Council P.C. 1982-3438 of 5th November, 1982:

The Honourable John R. Messer  
Tisdale, Saskatchewan

Mr. Laurent A. Picard  
Outremont, Quebec

Mr. Thomas K. Shoyama  
Ottawa, Ontario

CERTIFIED TO BE A TRUE COPY - COPIE CERTIFIÉE CONFORME

A handwritten signature in dark ink, appearing to read 'Gordon F. Chalkley'.

CLERK OF THE PRIVY COUNCIL - LE GREFFIER DU CONSEIL PRIVÉ

# Release

Date:                      November 5, 1982

For release:              Immediate

The Prime Minister announced today that the government has appointed The Honourable Donald S. Macdonald chairman of a Royal Commission on the Economic Union and Development Prospects for Canada.

The terms of reference are "perhaps the most important and far-reaching that have ever been assigned to any Commission in our history," he said.

The Prime Minister said that while short-term action is necessary to counter the adverse effects of the recession and lay the groundwork for the return to prosperity, "we must look further ahead to see in what ways the country and its institutions might change to take full advantage of future opportunities for development.

"We now live in a much more competitive, technologically-sophisticated and interdependent world environment," the Prime Minister said. "It is time we stood back to look at all these changes and, in the light of what has happened, to look ahead at what the next generation of development can bring -- if we do things right."

Moreover, the Prime Minister emphasized the need for Canadian institutions to keep up with a rapidly changing environment.

.../2

Canada

"If we are to prosper," he said, "we must find ways to lessen the clamour of federal-provincial argument, and to reach consensus with far less pain. But if this is to be achieved, we must ensure that national policies are designed so that all parts of Canada can benefit from them, and that national institutions are truly reflective of regional needs."

The Royal Commission is being asked to:

- assess Canada's economic potential over the longer-term;
- recommend national economic goals, and national policies for the attainment of those goals;
- recommend ways in which the institutions of the national government -- particularly those institutions which are vital to economic development -- can better reflect the views of all Canadians and regions;
- recommend institutional arrangements to handle more effectively relations between governments, business and labour, and the fiscal and economic aspects of federal-provincial relations.

The Prime Minister stressed the wide scope of the work assigned to the Royal Commission, the broadly representative and diverse nature of its membership, and the likelihood that its recommendations will contribute significantly to a brighter economic future for Canada. He expressed the hope that support for its establishment and cooperation with its work as it proceeds, will come from the House of Commons, all government and legislative organizations in Canada and from Canadians everywhere.



Royal Commission on the  
Economic Union and  
Development Prospects  
for Canada



Commission royale sur  
l'union économique et les  
perspectives de développement  
du Canada

September 7, 1984

Dear Mr. Mulroney:

My first words are those of congratulations on an historic electoral success. I know that in taking on these heavy responsibilities of forming a new government you will be reviewing a number of ongoing activities and assessing options and I felt that it would be appropriate to offer to you and to the Clerk of the Privy Council a current report on the work of the Royal Commission.

My fellow Commissioners and I are at the stage where we are drawing together almost two years of preparatory work involving the largest consultative and research effort in Canadian history. While our mandate requires us to report by November 5, 1985, I have prepared a course which would complete a final report well before that date.

The Commission budget is \$21.7 million. We have completed the bulk of our work at a cost of \$16.3 million in actual and committed funds. I would hope that we can conclude our task at a total cost of under \$20 million overall.

I have provided the Clerk of the Privy Council with a status report on our activities which I have enclosed. Should you or your officials wish further information or to meet with Commissioners or senior staff we would be very pleased to do so.

Yours sincerely,

*Donald S. Macdonald*

Hon. Donald S. Macdonald  
Chairman

The Honourable Brian Mulroney  
Prime Minister Elect  
Room 627, Wellington Building  
House of Commons  
Ottawa, Ontario  
K1A 0A6

P.O. Box/CP 1268  
Ottawa, Canada  
K1P 5R3

Canada





PRIME MINISTER • PREMIER MINISTRE

Ottawa, K1A 0A2  
November 2, 1984

Dear Mr. Macdonald:

I was pleased to learn that you and the Minister of Finance, the Honourable Michael Wilson, have had the opportunity of reviewing together the work of the Royal Commission on the Economic Union and Development Prospects for Canada.

Pursuant to that meeting, I wish to confirm the Government's views on how the Commission should complete its mandate.

You are no doubt aware that the effective resolution of the economic problems currently besetting Canada constitutes the priority for the Government: how to reduce deficits while remaining sensitive to the needs of Canadians, how to stimulate the entrepreneurial capabilities of Canadians, how to expand our markets abroad, how to attain optimum levels of employment in all regions of the country, and how to ensure that the talents of young Canadians are put to effective and productive use. The Government, therefore, will be particularly interested in the Commission's proposals respecting these matters.

The Honourable Donald S. Macdonald,  
Chairman,  
Royal Commission on the Economic Union  
and Development Prospects for Canada,  
151 Sparks Street,  
Ottawa, Ontario.  
K1P 5R3

I understand that it is the Commission's intention to present its final report in June of 1985 or soon thereafter, and it is the Government's hope that this goal will be met. The Government likewise hopes the Commission will complete the publication of pertinent research papers no later than November 5, 1985. I was also informed that you plan to hold the Commission's total expenditures at about \$20,000,000 and wish to convey the Government's hope that you will be able to achieve this target, and thus stay well within the three-year budget of \$21,790,000 initially proposed.

It is my intention to make this letter public so that Canadians may be informed of the Government's views on the work of the Commission.

Please accept my best wishes as you endeavour to complete your work in a timely fashion, within budget and with a focus on Canada's pressing economic problems.

Yours sincerely,

A handwritten signature in dark ink, appearing to read "Brian Mulroney". The signature is written in a cursive, flowing style with a long, sweeping tail on the final letter.





## Schedule of Written Submissions

Aalborg, Anders O.  
Abbott, Donald P.  
Abbott, Mark  
Acadian Federation of Nova Scotia  
Action travail des femmes du Québec inc.  
Activités-Jeunesse  
Adair, D. Brent  
Adair, John E.  
Adams, William G.  
Agricultural Institute of Canada  
Agrinove, Coopérative agro-alimentaire  
Aird, Paul L.  
Ajax-Pickering Board of Trade  
Alberta College, Institute Faculties Association  
Alberta Committee of Consumer Groups of Disabled Persons  
Alberta Historical Resources Foundation  
Alberta New Democratic Party  
Alberta Oil Sands Technology and Research Authority  
Alberta Teachers' Association  
Alberta Wheat Pool  
Alberta Wilderness Association  
Alcan Aluminium Limited  
Alert (Charlottetown Branch)  
Alexander, Donald A.  
Allan, Robyn  
Alliance of Canadian Cinema, Television and Radio Artists  
Alston, John M.  
Amoco Canada Petroleum Company Limited  
Amonson, David L.  
Andrade, M.L.R.  
Anderson, D.M.  
Andrew, Caroline and Jean-Pierre Gaboury  
Angus, Iain  
Aquin, Creighton  
Aram International

Archer, S.S.  
 Armstrong, John L.  
 Armstrong, Pat and Hugh  
 Arundel-Evans, Rick  
 Ashton, Ernie  
 Ashton, Steve, MLA  
 Asia Pacific Foundation of Canada  
 Assembly of B.C. Arts Councils and The Community Arts Council of Vancouver  
 Assembly of First Nations  
 Association canadienne-française de l'Alberta  
 Association coopérative d'économie familiale de Québec  
 Association des femmes collaboratrices  
 Association des mines de métaux du Québec inc.  
 Association des propriétaires de Québec inc.  
 Association féminine d'éducation et d'action sociale  
 Association for the Protection of Fur-Bearing Animals  
 Association of British Columbia Professional Foresters  
 Association of Canadian Advertisers Inc.  
 Association of Canadian Community Colleges  
 Association of Canadian Distillers  
 Association of Canadian Financial Corporations  
 Association of Consulting Engineers of Canada  
 Association of Deans of Pharmacy of Canada  
 Association of Professional Engineers of British Columbia  
 Association of Professional Engineers of Saskatchewan  
 Association of Universities and Colleges of Canada  
 Association of University of New Brunswick Teachers  
 Association of Women Electors of Metropolitan Toronto  
 Association of Yukon Communities  
 Association québécoise de la qualité  
 Associés R.C.P. Associates Inc.  
 Atkinson, Roy  
 Atlantic Conference on Learning Disabilities  
 Atlantic Provinces Chamber of Commerce  
 Atlantic Provinces Economic Council  
 Atlantic Provinces Transportation Commission  
 Atomic Energy of Canada Limited  
 Attawapiskat Band  
 Audain, Tunya  
 Audley, Paul  
 Auf der Maur, Frank  
 Austin, The Honourable Senator Jack  
 Axworthy, The Honourable Lloyd  
 Baffin Tourism Association  
 Baird, D.C.  
 BAKAVI, Design for Living Inc.  
 Bank of Montreal  
 Barber, Alan  
 Barnett, Enid  
 Barron, M.I.  
 Barron, R.E.  
 Beck, Gerry K.J.  
 Beckton, Clare  
 Beer, R.J.  
 Bégin, The Honourable Monique  
 Bell, A.J.  
 Bell Canada  
 Bell Canada Enterprises Inc.

Benesh, John B.  
 Benson, C.A.  
 Benton, S.B.  
 Bertrand, Guy  
 Beutel, Austin C.  
 Beynon, Peter K.  
 Biddell, John L.  
 Biggin-Pound, W.J.  
 Biggs, William M.  
 Bishop, J.W.  
 Blakeney, The Honourable Allan, Leader of the Opposition, Saskatchewan  
 Board of Trade of Metropolitan Toronto  
 Boddy, Dale  
 Boigon, Irving D.  
 Boily, Robert  
 Bombardier Inc.  
 Bonyun, Denis  
 Boros, Stephen D.  
 Boyd, John B.  
 Boyd, Michael  
 BP Selco Inc.  
 Brace, Bruce R.  
 Bradley, William  
 Bradshaw, Nancy  
 Breiland, Haakon Johan  
 Brett, Peter  
 Brewis, T.N.  
 Brian Hull and Associates  
 BRITEX  
 British Columbia and Yukon Territory Building and Construction Trades Council  
 British Columbia Association of Social Workers  
 British Columbia Central Credit Union  
 British Columbia Federation of Women  
 British Columbia Health Association  
 British Columbia Institute of Technology  
 British Columbia Law Union  
 British Columbia Resources Investment Corporation  
 British Columbia Wildlife Federation  
 British Columbians for Mentally Handicapped People  
 Britten, Patrick  
 Brown, Denis  
 Brown, George  
 Brown, Rupert D.  
 Brown, Walter F.M.  
 Bruneau, Angus  
 Brunelle, Dorval  
 Bruton, Len T.  
 Buckley, F.W.  
 Bujold, Bernard  
 Bulpin, Donald  
 Burke, Roger J.  
 Burns Foods Limited  
 Burns Fry Limited  
 Business Council on National Issues  
 Busque, Paul-André  
 Byrne, Gerald  
 Cadeddu, Salvatore  
 Cadillac Fairview Corporation Limited

Cairns, W.L.  
 Calgary Association of Voluntary Agencies  
 Calgary Chamber of Commerce  
 Calgary Council for Advanced Technology  
 Calgary Research and Development Authority  
 Camco  
 Cameron, Douglas  
 Cameron, Sandy, Leader of the Opposition, Nova Scotia  
 Cameron, W.J.  
 Campbell, A.J.  
 Campbell, Duncan D.  
 Campbell, J.G.  
 Campeau Corporation  
 Canada Jaycees  
 Canada Oil and Gas Lands Administration (Nova Scotia Office)  
 Canada West Foundation  
 Canadian Advisory Council on the Status of Women  
 Canadian Agricultural Chemicals Association  
 Canadian Air Line Employees' Association  
 Canadian Air Line Pilots Association  
 Canadian Art Museums Directors' Organization  
 Canadian Artists' Representation  
 Canadian Association for Adult Education  
 Canadian Association for the Club of Rome  
 Canadian Association of Housing and Renewal Officials  
 Canadian Association of School Administrators  
 Canadian Association of Social Workers  
 Canadian Association of University Teachers  
 Canadian Association of Women Executives  
 Canadian Association on Gerontology  
 Canadian Bankers' Association  
 Canadian Bankers' Association/Investment Dealers Association of Canada  
 Canadian Bar Association  
 Canadian Business and Industry International Advisory Council  
 Canadian Business Equipment Manufacturers Association  
 Canadian Cattlemen's Association  
 Canadian Centre for a Changing Society  
 Canadian Centre for Philanthropy  
 Canadian Chamber of Commerce (Montreal)  
 Canadian Chamber of Commerce (Ottawa)  
 Canadian Chemical Producers' Association  
 Canadian Co-operative Wheat Producers Limited  
 Canadian Conference of Catholic Bishops  
 Canadian Conference of the Arts  
 Canadian Congress for Learning Opportunities for Women  
 Canadian Construction Association  
 Canadian Council for International Co-operation  
 Canadian Council of Furniture Manufacturers  
 Canadian Council of Professional Engineers  
 Canadian Council on Social Development  
 Canadian Crafts Council  
 Canadian Day Care Advocacy Association  
 Canadian Direct Marketing Association  
 Canadian Electrical Association  
 Canadian Electrical Distributors Association  
 Canadian Environmental Advisory Council  
 Canadian Environmental Law Research Foundation  
 Canadian Export Association



Canadian Federation of Agriculture  
 Canadian Federation of Communications Workers  
 Canadian Federation of Deans of Management and Administrative Studies  
 Canadian Federation of Humane Societies  
 Canadian Federation of Independent Business  
 Canadian Federation of Independent Petroleum Marketers  
 Canadian Federation of Labour  
 Canadian Federation of Professional Foresters' Associations  
 Canadian Federation of Students  
 Canadian Food Processors Association  
 C.F.B. Chatham Steering Committee  
 Canadian Forestry Association  
 Canadian Forestry Service  
 Canadian Foundation for Economic Education  
 Canadian Friends of Schizophrenics  
 Canadian Gas Association  
 Canadian General Electric Company Limited  
 Canadian Hardware and Housewares Manufacturers Association  
 Canadian Health Coalition  
 Canadian Hospital Association  
 Canadian Importers Association Inc.  
 Canadian Industrial Renewal Board  
 Canadian Institute for Advanced Research  
 Canadian Institute for Economic Policy  
 Canadian Institute of Chartered Accountants  
 Canadian Institute of Forestry  
 Canadian Institute of Mining and Metallurgy  
 Canadian Institute of Planners  
 Canadian Labour Congress  
 Canadian Life and Health Insurance Association Inc.  
 Canadian Machine Builders' Association  
 Canadian Manufacturers' Association  
 Canadian Manufacturers' Association (PEI Branch)  
 Canadian Meat Council  
 Canadian Medical and Biological Engineering Society Inc.  
 Canadian Mental Health Association  
 Canadian Museums Association  
 Canadian National Railways  
 Canadian Nurses' Association  
 Canadian Organic Producers Marketing Cooperative Limited  
 Canadian Pacific  
 Canadian Pension Conference  
 Canadian Pensioners Concerned Inc.  
 Canadian Petroleum Association  
 Canadian Pulp and Paper Association  
 Canadian Real Estate Association  
 Canadian Red Cross Society  
 Canadian Rehabilitation Council for the Disabled  
 Canadian Research Institute for the Advancement of Women  
 Canadian School Trustees' Association  
 Canadian Shipbuilding and Ship Repairing Association  
 Canadian Society for Chemical Engineering  
 Canadian Society for Professional Engineers  
 Canadian Society for the Study of Higher Education  
 Canadian Soft Drink Association  
 Canadian Teachers' Federation  
 Canadian Textiles Institute  
 Canadian Trucking Association

Canadian Union of Public Employees  
 Canadian Urban Transit Association  
 Canadian-Arab Cultural Centre  
 Canola Crushers of Western Canada  
 Canterra Engineering Limited  
 Cape Breton Co-operative Council  
 Cape Breton Development Corporation  
 Cape Breton Joint Expenditure Board  
 Capeling, Ralph R.  
 Capital Families  
 Capital Region Development Commission Inc.  
 Cappell, Joel  
 Carlson, Gary  
 Caro, Denis H.J.  
 Carpenters and Joiners Union, Local 494  
 Carrefour québécois des travailleurs de la famille  
 Carrier-Sekani Tribal Council  
 Carrothers, A.W.R.  
 Carson, John W.  
 Carter, Larry Ernest  
 Cartier Circle  
 Carver, Horace B., MLA  
 Cassidy, Michael, MPP  
 Cassivi, Yvon  
 Catholic Family Services of Saskatoon  
 Catholic Social Services  
 Catholic Women's League of Canada  
 Cauchon, Dona  
 Cawkell, David M.  
 Caya, Martin  
 Celanese Canada Inc.  
 Central Interior Tribal Councils  
 Centrale de l'enseignement du Québec  
 Centrale des syndicats démocratiques (Montréal)  
 Centrale des syndicats démocratiques (ville de Québec)  
 Centre-femmes de Beauce  
 Chalifoux, John  
 Chamber of Commerce Northwest Inc.  
 Chambre de commerce de Chicoutimi  
 Chambre de commerce de la province de Québec  
 Chambre de commerce et d'industrie du Québec métropolitain  
 Charron, Edgar B.  
 Chartrand, Harry  
 Chase, Llama Jane  
 Checkland, Edward and Russell Pendergast  
 Chemical Institute of Canada  
 Chilliwack Community Arts Council  
 Chorney, Paul  
 Chouinard, Faustin  
 Christian Farmers Federation of Ontario  
 Christian Labour Association of Canada  
 Chumir, Sheldon M.  
 Church, R.B.  
 Churches of Edmonton  
 Ciera Technology Limited  
 C.I.L. Inc.  
 Citizens for Public Justice  
 City of Calgary

City of Charlottetown  
 City of Chicoutimi  
 City of Edmonton  
 City of Fredericton  
 City of Halifax  
 City of Hull  
 City of Lethbridge  
 City of Moncton  
 City of Ottawa  
 City of Vancouver  
 City of Windsor  
 City of Windsor, Mayor's Committee on Services for the Unemployed  
 City of Winnipeg, Department of Environmental Planning  
 City of Yellowknife  
 A.R. Clarke & Co. Limited  
 Clément, Michèle  
 Clements, Bryan  
 Cliche, Nicolas  
 Cloutier, L.  
 CNCP Telecommunications  
 Co-op Union of Canada and the Canadian Co-op Credit Society  
 Co-operative Housing Foundation of Canada  
 Co-operative Trust Company of Canada  
 Coalition for National Voluntary Organizations  
 Coalition for the Protection of Human Life  
 Coalition of Social Organizations in Cape Breton  
 Coffin, Garth  
 Coldwell, Susan  
 College of New Caledonia  
 Collenette, The Honourable David M.  
 Comact Inc.  
 Cominco Limited  
 Common Ownership Development Association  
 Communauté urbaine de Montréal  
 Communications Workers of Canada  
 Communist Party of Canada  
 Communist Party of Canada (British Columbia)  
 Community Council of Greater Victoria  
 Community Forum on Shared Responsibility  
 Community Nursing Registry of Windsor Inc.  
 Community Services Council (Newfoundland and Labrador)  
 Community-Based Health Services Coalition  
 Compu-Guard  
 Confédération de l'Union des producteurs agricoles  
 Confédération des caisses populaires et d'économie Desjardins du Québec  
 Confédération des syndicats nationaux (Chicoutimi)  
 Confédération des syndicats nationaux (Montréal)  
 Confédération des syndicats nationaux (Saint-Georges-de-Beauce)  
 Confédération des syndicats nationaux (ville de Québec)  
 Confederation of Alberta Faculty Associations  
 Confederation of Regions Party of Alberta  
 Conférence des associations de créateurs et créatrices du Québec  
 Conseil canadien de la coopération  
 Conseil de la coopération du Québec  
 Conseil de la sculpture du Québec  
 Conseil du patronat du Québec  
 Conseil économique d'Alma et de Lac-St-Jean inc.  
 Conseil économique de Beauce

Conseil économique du Nouveau-Brunswick inc.  
 Conseil exécutif national du Parti québécois  
 Conseil jeunesse provincial inc.  
 Conseil régional de développement de la région administrative de Québec  
 Conseil régional de développement Saguenay-Lac-Saint-Jean-Chibougamau  
 Conseil régional de la Pastorale La Chaudière  
 Conservation Council of New Brunswick  
 Conserver Action Research and Education Inc.  
 Consolidated-Bathurst Inc.  
 Construction Industry Development Council  
 Consulting Engineers of Alberta  
 Consumer and Corporate Affairs (Combines Investigation Act)  
 Consumers' Association of Canada  
 Consumers' Association of Canada (Manitoba)  
 Consumers' Association of Canada (Ontario)  
 Consumers' Association of Canada (Yukon)  
 Control Data Canada Limited  
 Conzelmann, B.  
 Cooper, Lawrence O.  
 Corner Brook Chamber of Commerce  
 Corporation des artisans de Québec  
 Corporation of the Borough of East York  
 Couchman, Robert  
 Council of Forest Industries of British Columbia  
 Council of National Ethnocultural Organizations of Canada  
 Council of Nova Scotia Association of Social Workers  
 Council of the City of Winnipeg  
 Counterpoint Waterfront Community Development Corporation  
 Courtright, J.M.  
 Cowan, D.G.  
 Cowan, Keith  
 Cowie, Wilbur Elliott  
 Cox, Daniel Jack  
 Cran, Emily Elizabeth  
 Crédit Suisse  
 Credit Union Central  
 Creelman Hill, Cynthia  
 Crispo, John  
 Croft, John G.  
 Crossroads Resource Group  
 Crysler, John  
 Cunningham, Ruth  
 Curtis, B.E.  
 Dakota Ojibway Tribal Council  
 Dalrymple, D.G.  
 Daly, Donald J.  
 Daly Gordon Securities  
 Dansereau, Pierre  
 Darcel, Colin  
 Dartmouth Chamber of Commerce  
 Davidson, Jim  
 Davis, Edgar H.  
 Davis, The Honourable Jack, MLA  
 Daybreak Non-Profit Shelter Corporation  
 De Boer, John  
 de Fayer, T.L.  
 de Lasala, Jennifer  
 Decima Research Limited



Decore, Laurence, Mayor of Edmonton  
 Demers, Téléphore  
 Dennison, W.J.  
 DeYoe, Donald A.  
 Dhensaw, Robert  
 Diamant Knitting Mills Limited  
 DiCastri, Daphne  
 Dicks, Dennis J.  
 Didier, René  
 Diplômés de l'Université de Montréal  
 District of Chilliwack  
 District of Lynn Lake  
 District of Mackenzie  
 Dixon, Gordon F.  
 Dixon, Robert J.  
 Dobell, A.R.  
 Doerr, John A.  
 Dolling, G.  
 Dome Petroleum Limited  
 Dominion Marine Association and the Canadian Shipowners Association  
 Dominion Textile Inc.  
 Doré, Charles  
 Dow Chemical Canada Inc.  
 Doyle, J. Donald  
 Dragon, Jean-Jacques  
 Du Pont Canada Inc.  
 Dubé, Francine  
 Dwornik, Andrew S.  
 Dyer, John  
 Dysart, Shirley, MLA  
 Dyson, William  
 Ecology Action Centre  
 Economic Council of Canada  
 Economic Development Advocacy Committee, County of Strathcona No. 20  
 Economic Development Commission of the Cariboo Regional District  
 Elce, Ivan  
 Electrical and Electronic Manufacturers Association of Canada  
 Elliott, Jim  
 Emberley, Kenneth  
 Empey, William F.  
 Employers' Council of British Columbia  
 Engineer, Homi M.  
 Enright, John A.  
 Environment Canada  
 Equipment Lessors Association of Canada  
 Erola, The Honourable Judy  
 Faculty Association of St. Thomas University  
 Fair, John E.  
 Fairweather, Gordon  
 Falconbridge Limited  
 Family Farm Foundation of Canada  
 Family Service Association of Metropolitan Toronto  
 Family Service Bureau of Regina  
 Federal Superannuates National Association  
 Federated Anti-Poverty Groups of British Columbia  
 Federated Co-operatives Limited  
 Federated Women's Institutes of Canada  
 Fédération de l'Union des producteurs agricoles de la Beauce

Fédération de l'Union des producteurs agricoles du Saguenay-Lac-Saint-Jean  
 Fédération des associations de professeurs des universités du Québec  
 Fédération des caisses populaires Desjardins du Saguenay-Lac-Saint-Jean  
 Fédération des femmes canadiennes-françaises  
 Fédération des femmes du Québec  
 Fédération des franco-colombiens  
 Fédération des francophones hors Québec inc.  
 Fédération des syndicats du secteur aluminium inc.  
 Federation of Canadian Municipalities  
 Federation of Community Development Corporations of Canada  
 Federation of New Brunswick Faculty Associations  
 Federation of Nova Scotian Heritage  
 Federation of Saskatchewan Indian Nations  
 Federation of Sikh Societies of Canada  
 Fédération québécoise anti-pauvreté inc.  
 Fedorick, Joy  
 Fell, R. Bruce  
 Fenech, V.  
 Fernie Womens' Resource Centre  
 Fetherstonhaugh, John  
 Film Factory Limited  
 Fiorino, Albert F.  
 First United Church  
 Firth, C.B.  
 Fisheries Council of Canada  
 Fishermen's Survival Coalition  
 Fleck Bros. Limited  
 Fleming, Blake C.  
 Flewwelling, Herb  
 Ford, J. W.  
 Formula Growth Limited  
 Fors, P.B.  
 Fortune, John  
 Foster, W.E.  
 Fox, The Honourable Francis  
 Frank, Andre Gunder  
 Franklin, John N.  
 Fraser Institute  
 Fredericton Chamber of Commerce  
 Friends of the Earth  
 Frobisher Inn  
 Gagnon, Jean  
 Gallagher, Jack P.  
 Galley, Ann  
 Garde-Hansen, H.  
 Garneau, Raymond  
 Garner, Peter H.  
 Gatenby, R.  
 Gayfer, E.R.  
 Gaz Inter-Cité Québec inc.  
 General Synod of the Anglican Church of Canada  
 Genstar Corporation  
 Gibson, Gordon and Peter McCormick  
 Gillen, Ralph L.  
 Girard, Georgette  
 Goering, J.W.L.  
 Goldberg, Michael A.  
 Goldie, D.M.M.

Goldsack, Douglas  
 Gomero, Orlando  
 Gomes, Mary Jane and Emil Kolompar  
 Gonick, Cy  
 Gorling, G.  
 Gorman, Ryan M. and Peter R.  
 Government of Alberta  
 Government of New Brunswick  
 Government of Newfoundland and Labrador  
 Government of Nova Scotia  
 Government of Ontario  
 Government of Prince Edward Island  
 Government of Saskatchewan  
 Government of the Northwest Territories  
 Government of Yukon  
 Grace, Norman  
 Grand Council of the Crees (of Quebec)  
 Gray McKinlay Associates  
 Gray, James K.  
 Great Lakes Forest Products Limited  
 Great Lakes Waterways Development Association  
 Greater Charlottetown Area Chamber of Commerce  
 Greater Summerside Chamber of Commerce  
 Greater Victoria Chamber of Commerce  
 Green Party of Ontario  
 Grocery Products Manufacturers of Canada  
 Grolle, E. Hendrik  
 Groupe d'action pour l'avenir technologique et industriel de la région de Québec  
 Gue, Frank S.  
 Gulf Canada Limited  
 Habitation populaire de Québec inc.  
 Haji, G.  
 Halifax Board of Trade  
 Halifax County Municipality  
 Halina, J.W.  
 Hall, The Honourable Emmett M.  
 Halo, Julius  
 H.N. Halvorson Consultants Limited  
 Hamill, Louis  
 Hamilton and District Labour Council  
 Hancock, Alma  
 Hancox, Kenrick G.  
 Harper, Paul  
 Hattersley, J. Martin  
 Hawker Siddeley Canada Inc.  
 Hay Associates Canada Limited  
 Haydu, Stephen C.  
 Hayos, Vera M.  
 H.C.A. Development Consultants  
 Heading, Roddy  
 Health Coalition of Nova Scotia  
 Heap, Dan, MP  
 Hearn, Edward M.  
 Help the Aged  
 Hemming, Timothy C.S.  
 Henderson, Ian  
 Henry, Lawrence D.  
 Heritage Canada Foundation

Heritage Ottawa  
 Heritage Winnipeg  
 Herzstein, Robert  
 Higgins, Brian  
 Hildebrand, John L.  
 Hill, Stuart B.  
 Hills, Keith  
 Hitchins, D.H.  
 Hoinkes, Robert H.  
 Holman, Lucy  
 Honeywell Limited  
 Hope-Simpson, Peggy  
 Hopkins, Leonard D., MP  
 Hopperton, Hugh E.  
 Housing and Urban Development Association of Canada  
 Houston, Charles W.  
 C.D. Howe Institute  
 Hudson, Elizabeth R.  
 Hughes, C.D.  
 Hum, Derek  
 Human Resources Development Association  
 Hunaus, F.  
 Hunsley, Terrance M.  
 Hutcheon, A.D.  
 Ilett, James  
 Immigrant and Multicultural Services Society  
 Imperial Oil Limited  
 INCO Limited (Sudbury)  
 INCO Limited (Thompson)  
 Income Maintenance for the Handicapped Coordinating Group  
 Indian and Northern Affairs Canada  
 Industrial Cape Breton Board of Trade  
 Infonorth Computing Inc.  
 Inniss, Scott  
 Inuit Group  
 Institute for Environmental Studies  
 Institute of Association Executives  
 Institute of Donations and Public Affairs Research  
 International Association of Machinists and Aerospace Workers  
 International Business Council of Canada  
 International Union of Operating Engineers, Local 115  
 International Union, United Automobile, Aerospace and Agricultural Implement  
     Workers of America  
 International Woodworkers of America  
 Interprovincial Steel and Pipe Corp. Limited  
 Inuit Circumpolar Conference  
 Inuit Tapirisat of Canada  
 Jacob, Joseph W.  
 James Bay Crees  
 James Bay Tribal Council of the Nishnawbe-Aski Nation  
 Janssen, W.P.  
 Jean, Michèle  
 Jewett, G.A.  
 Johnson, Brian A.  
 Johnson, Eunadie  
 Johnson, Martine, Mayor of Frobisher Bay  
 Johnston, The Honourable Donald  
 Jorgenson, Dianne E.



Julian, Henry  
 Jull, Peter B.  
 Jurdant, Michel and Barbara Tessier  
 Kagawa, Dean  
 Kaiser, K.  
 Kantor, Mark G.  
 Kastner, Arnold  
 Katimavik (Group #24)  
 Katimavik (Group #152)  
 Katimavik (Group #4448)  
 Kavana, James  
 Keewatin Inuit Association  
 Keewatin Regional Council  
 Kekuli Audio Visual Society  
 Kendal, Peter  
 Kennedy, Terrence  
 Kent, William  
 Khachatourians, George G.  
 Kierans, Thomas W.  
 Kingfisher Management Limited  
 Kirkman, Fred  
 Kitchener Chamber of Commerce  
 Klasen, Olaf  
 Korey, George  
 Kristjanson, Leo F.  
 Kurland Development Corporation  
 L'Université du troisième âge  
 Labour Council of Metropolitan Toronto  
 Ladell, B.W.  
 Lakehead Social Planning Council  
 Lalonde, Claude  
 Lambton County Board of Education  
 Lamontagne, Lorne and Alex Murchie  
 Langelier, Denis  
 Larson, L.A.  
 Laubach Literacy of Canada  
 Laubach Literacy of Canada (Ontario)  
 Laurentian Group  
 Lavoie, Jean-Claude, Mayor of Shipshaw  
 Le Beau, Pierre  
 LeBlanc, Ronald C.  
 Le Groupe Desgagnés inc.  
 Lehner, Joseph V.  
 LeMay, M. Martial  
 Lemire, Jean-Marc  
 Lemprière, J.V.  
 Lethbridge Chamber of Commerce  
 Lethbridge Interagency Committee  
 Lethbridge Research Station  
 Lewis, L.A.  
 Liberal Party of Manitoba  
 Life Underwriters Association of Canada  
 Lindseth, Roy O.  
 Lingman, Bob  
 Lister, Rota Herzberg  
 Little, Thomas B.  
 Local Exchange Trading System  
 Lockett, Wilfred G.

London Life Insurance Company  
 London Status of Women Action Group  
 Lone Rock Resources Limited  
 Long, Gus  
 Loomis, Reg. D.  
 Jim Lotz Associates  
 Low, Ken  
 Lowry, Peter J.  
 Lubbock, Michael R.  
 Luttervelt, Douglas H.  
 Maass, G.  
 Macaree, David  
 MacBain, Al, MP  
 MacDonald, R.A.  
 Machinery and Equipment Manufacturers' Association of Canada  
 Macintosh, Norman B. and John Coleman  
 MacIsaac, Ronald F.  
 Mackie, James F.  
 MacKinnon, Frank  
 MacLaren, G.W.  
 Maclean Hunter Limited  
 MacLean, Vincent J., MLA  
 MacMillan, Bruce  
 MacMillan, George S.  
 Maine, Frank  
 Mainland Dairymen's Association  
 Maire, André  
 Makivik Corporation  
 Malcolmson, Kim  
 Management Council for Responsible Employee Relations  
 Mangalam, Mr. and Mrs.  
 Manitoba Action Committee on the Status of Women  
 Manitoba Advisory Council on the Status of Women  
 Manitoba Anti-Poverty Organization Inc.  
 Manitoba Association for Children and Adults with Learning Disabilities  
 Manitoba Association of Urban Municipalities  
 Manitoba Federation of Labour  
 Manitoba Keewatinowi Okimakanak Inc.  
 Mardon, J. and G.N. Ionides  
 Marine Workers' Federation  
 Maritide Co. Limited  
 Maritime Electric Company Limited  
 Maritime Lumber Bureau  
 Maritime Telegraph and Telephone Company Limited  
 Marquis, Benoit  
 Masters, Wayne  
 Matejko, Alexander J.  
 Mathes, A.F.  
 Maund, Jacqueline K.  
 Maynard, Murray R.  
 McAllister, Ian  
 McAllister, Kenneth  
 McClusky, John B.  
 McDonald, Neil  
 McElcheran, William  
 McGill University  
 McLoughlin, Peter F.M.  
 McMaster University

McRuer, John D.  
 McWilliam, Shirlie  
 Meincke, Peter  
 Memorial University of Newfoundland, Faculty of Business Administration  
 Mennonite Central Committee Canada  
 Mensah, Spero  
 Mental Health Association in Saskatchewan  
 Métallurgie Frontenac Limitée  
 Métivier, Gilles  
 Meyer, Jack L.  
 Michael Doyle and Associates Limited  
 Michael Jarvis Consultants Limited  
 Michael, Cliff, MLA  
 MIDAS Reform Organization of Alberta  
 Miller, Bernard F.  
 Miller, J.L.  
 Mining Association of British Columbia  
 Mining Association of Canada  
 Minto Family Life Education Centre Inc.  
 Miramichi Region Development Corporation Inc.  
 Mitchell, Ian H.  
 Mobilisation contre la misère  
 Moncton Volunteer Centre  
 Monenco Limited  
 Montgomery, James L.M.  
 Montreal Economic Promotion Committee  
 Moore, Samuel A.  
 Morison, George  
 Morley, Joseph A.  
 Moss, Lawson Co. Limited  
 Motor Vehicle Manufacturers' Association  
 Mount Saint Vincent University  
 Mowers, Cleo W.  
 Municipality of Metropolitan Toronto  
 Municipality of the District of Lunenburg  
 Munro, The Honourable John C.  
 Murgaski, Victor  
 Murphy, Rod, MP  
 Murray, G. Betty  
 Murray, R.V.  
 Nance, Phillip and Krista  
 Narbey, Greg  
 Nashwaak Consulting  
 Nasogaluak, William and Doug Billingsley  
 National Action Committee on the Status of Women  
 National Council of Welfare  
 National Council of Women of Canada  
 National Council of YMCAs of Canada  
 National Farmers Union  
 National Farmers Union (PEI)  
 National Pensioners and Senior Citizens Federation  
 National Research Council of Canada  
 National Spiritual Assembly of the Baha'is of Canada  
 National Union of Provincial Government Employees  
 Native Canadian Petroleum Association and Canada Geothermal Oil Limited  
 Native Communications Inc.  
 Natural Sciences and Engineering Research Council of Canada  
 Nazaire, Lionel

Neary, Stephen A., MLA  
 Neufeld, John W.  
 Nevison, Myrne  
 New Brunswick Advisory Council on the Status of Women  
 New Brunswick Association of Métis and Non-Status Indians  
 New Brunswick Federation of Labour  
 New Brunswick Liberal Party  
 New Brunswick New Democratic Party  
 New Brunswick Premier's Council on the Status of Disabled Persons  
 New Brunswick Public Employees Association  
 New Brunswick Telephone Company Limited  
 New Brunswick Young Liberal Association  
 New Dawn Enterprises Limited  
 Newfoundland and Labrador Arts Council  
 Newfoundland and Labrador Federation of Labour  
 Newfoundland and Labrador Federation of Municipalities  
 Newfoundland and Labrador Human Rights Association  
 Newfoundland and Labrador Youth Advisory Council  
 Newfoundland Association of Social Workers  
 Newfoundland Light and Power Co. Limited  
 Nicholls, A.L.  
 Nicholson, G. Paul  
 Nicolaou, Anthony D.  
 Niemi, Fo  
 Nishnawbe-Aski Nation  
 Non-Organized Workers of Thunder Bay  
 Nordair  
 Nordicity Group Limited  
 Norman Regional Development Inc.  
 Norrie, G.C.  
 North Shore Citizens Committee for Responsible Forest Management  
 North-South Institute  
 Northeastern Ontario Energy Conservation Association  
 Northern Canada Power Commission  
 Northern Development Council of British Columbia  
 Northern Flood Committee  
 Northern Ontario District Council of Lumber and Sawmill Workers Union  
 Northern Telecom Limited  
 Northwest Territories Association of Municipalities  
 Northwest Territories Chamber of Mines  
 Northwest Territories Public Service Association  
 Northwest Territories Registered Nurses Association  
 Northwestern Ontario Municipal Association  
 Northwestern Ontario Women's Centre  
 Nova Scotia Advisory Council on the Status of Women  
 Nova Scotia Farmers' Union  
 Nova Scotia Federation of Labour  
 Nova Scotia New Democratic Party  
 Nova Scotia Nurses' Union  
 Nova Scotia Teachers' Union  
 NOVATRON  
 Nunavut Constitutional Forum  
 Nuu-Chah-Nulth Tribal Council  
 Oberlander, H. Peter  
 Oberle, Frank, MP  
 Oberti, Oberto  
 O'Brien, Chris  
 O'Brien, Terry



Ocean Harvesters Limited  
 Office de la pastorale sociale du diocèse de Québec  
 Ogden, Michael  
 Oliver, J.W.  
 Olshanoski, Stan  
 Ontario Association of Family Service Agencies  
 Ontario Business Improvement Area Association  
 Ontario Committee on the Status of Women  
 Ontario Confederation of University Faculty Associations  
 Ontario Federation of Agriculture  
 Ontario Federation of Students  
 Ontario Institute of Agrologists  
 Ontario Public Service Employees Union  
 Ontario Secondary School Teachers' Federation  
 Ontario Teachers' Federation  
 Operation Solidarity  
 Ophek, Eli  
 Ordre des comptables agréés du Québec  
 Ordre des ingénieurs du Québec  
 Osborne, John E.  
 Ottawa Symphony Orchestra  
 Ottawa-Carleton Board of Trade  
 Otto, Carl H.  
 Ouellet, The Honourable André  
 Overs, John E.  
 Oxley, F.O.  
 Pacific Group for Policy Alternatives  
 Palliser Wheat Growers Association  
 Palmer, James S.  
 Panarctic Oils Limited  
 Paradigm Health  
 Parliament, H.E.  
 Parti libéral du Québec  
 Partington, R.J.  
 Paterson, Ross H.  
 Paul, Ross H.  
 Paus-Jenssen, A.  
 Payne, Fern G.  
 Payne, G.  
 Peeters, Martin  
 Peitchinis, Stephen G.  
 People United for a Non-Exploitive Society  
 People, Words and Change  
 Percival, Alan Hardy  
 Perel, Motty  
 Perley, Daniel R.  
 Perrault, Charles  
 Peters, Abe  
 Peters, H.  
 Petro-Canada  
 Pétromont Inc.  
 Pettick, Joseph  
 Pfeifer, Conrad  
 Pictou County Research and Development Commission  
 Piper, T.C.  
 Pitfield, The Honourable Senator P. Michael  
 Placer Development Limited  
 Planetary Initiative for the World We Choose

Podhy, Pauline  
 Policy Analysis and Research Management  
 Pollution Probe  
 Polysar Limited  
 Polyvalente "Le Boisé", Atelier de culture  
 Pomerleau, Hervé  
 Ponderosa Park Development Company Limited  
 Porter, Stephen  
 Pousette, John  
 Prairie Implement Manufacturers Association  
 Pratt & Whitney Canada Inc.  
 Precision Engraving Co. Limited  
 Presber, T.C.  
 Prince Edward Island Advisory Council on the Status of Women  
 Prince Edward Island Egg Commodity Marketing Board  
 Prince Edward Island Federation of Agriculture  
 Prince Edward Island Potato Marketing Board  
 Prince George and District Labour Council  
 Prince George and District Senior Citizens Activity Centre  
 Prince George and District United Way  
 Prince George Chamber of Commerce  
 Prince George Community Arts Council  
 Prince George Region Development Corporation  
 Procycle Inc.  
 Professional Institute of the Public Service of Canada  
 Prospectors and Developers Association  
 Pross, A. Paul  
 Provincial Advisory Council on the Status of Women (Newfoundland and Labrador)  
 Public Interest Advocacy Centre  
 Pugsley, William H.  
 Pulsifer Sr., Orville B.  
 Puziak, M.D.  
 Quebec Federation of Senior Citizens  
 Quittner, J.K.  
 Rawson Academy of Aquatic Science  
 Ray, A.K.  
 Raycroft, J.G.  
 Raynauld, André  
 Récupération Bois-Francis Inc.  
 Reese, Peter J.  
 Regional Municipality of Sudbury  
 Regional Municipality of York  
 Registered Nurses' Association of British Columbia  
 Reid, James F.  
 Rémillard, Gil  
 Rental Housing Council of British Columbia  
 Réseau d'action et d'information pour les femmes  
 Retail Council of Canada  
 Retail Council of Canada (Winnipeg)  
 Richard, J.G.  
 Ricks, James, and Frances A.  
 Riddell, C.H.  
 Roberts, Richard  
 Roberts, Stan C.  
 Robertson, Alec  
 Robertson, Gordon  
 Robson, C.A.  
 Roussel, Claude

Rowan, William O.  
 Roy, Fabien  
 Roy, Réal  
 Royal Bank of Canada  
 Rudnycky, J.B.  
 Rumball, Donald A.  
 Rupert, Gary B.  
 Rural Learning Association  
 Russell, D.P.  
 Ryan, R. Lloyd  
 St. Clair College  
 St. Francis Xavier University  
 Saint John Board of Trade  
 St. John's Board of Trade  
 St. Patrick's Social Justice Committee  
 Salenius, P.O.  
 Saltsman, Max  
 Sarasin, André C.  
 Sarnia/Lambton Economic Development Commission  
 Saskatchewan Action Committee on the Status of Women  
 Saskatchewan Chamber of Commerce  
 Saskatchewan Co-ordinating Council on Social Planning  
 Saskatchewan Council for International Co-operation  
 Saskatchewan Environmental Society  
 Saskatchewan Federation of Agriculture  
 Saskatchewan Federation of Labour  
 Saskatchewan Mining Association Inc.  
 Saskatchewan Teachers' Federation  
 Saskatchewan Urban Municipalities Association  
 Saskatchewan Working Women  
 Saskatoon Board of Trade  
 Saskatoon Union of Unemployed Workers  
 Schey, John A.  
 School of Economic Science  
 Science Council of Canada  
 Scott, Anthony  
 Scott, Christopher  
 Scott, Donald P.  
 Scott, James A.  
 Scott, Paul  
 Scott, Stephen  
 Seaboard Lumber Sales Company Limited  
 Seafarers' International Union of Canada  
 Sebella, Carol John  
 Seeley, Larry E.  
 Semotiuk, Andriy J.  
 Settle, Winston  
 Sévigny, Roseline and Noëlla Porter  
 Shargool, Peter D.  
 Shashka, Gus  
 Shaw, N.  
 Shelford, Cyril M.  
 Shell Canada Limited  
 Shepard, Merrill W.  
 Sheps, Lillian  
 Shields, R. and W. Sheridan  
 Shields, William S.  
 Shiell, Maisie

Shoe Manufacturers' Association of Canada  
 Shumuk, Ivan  
 Sierra Club of Western Canada  
 Simek, Stefan  
 Simmons, Helen  
 Simpson, C.H.  
 Singh, Hira  
 Singhal, Raj K.  
 SLACAN  
 Sloan, A.  
 Smith International Canada Limited  
 Smith, Donald S.  
 Smits, Nel  
 Smyth, Steven  
 SNC Group  
 Snow, Kathleen M.  
 Snyder, Harold L.  
 Sobolewski, André  
 Social Action Commission, Roman Catholic Diocese of Charlottetown  
 Social Planning and Research Council of Hamilton and District  
 Social Planning and Review Council of British Columbia  
 Social Planning Council of Metropolitan Toronto  
 Social Planning Council of Ottawa-Carleton  
 Social Planning Council of Winnipeg  
 Société de développement de Jonquière inc.  
 Société inter-port de Québec  
 Société Saint-Thomas d'Aquin  
 Society of Atomic Energy of Canada Limited Professional Employees (Pinawa)  
 Society of Atomic Energy of Canada Limited Professional Employees, Executive  
 (Chalk River)  
 Society of Management Accountants of Canada  
 Software Industry Development Association  
 Sommet Québécois de la jeunesse  
 Sorensen, Lynda, MLA  
 Sorrenti, Adam M.  
 South Grenville District High School, Students of Grade 13 Geography  
 Southern Kings and Queens Community Advisory Board  
 Spangehl, Ed  
 J.H. Stacey Professional Research and Information Services  
 Standards Council of Canada  
 Staples, Richard  
 Startin, Don  
 Status of Women Action Group (Victoria)  
 Status of Women Council (Yukon)  
 Steering Committee for Implementing the Ecosystem Approach  
 Stein, Carol  
 Stewart, Ross and Evaleen Jaager  
 Steyaert, Octaaf  
 STOP Inc.  
 Storefront for Voluntary Agencies  
 Students' Union of Nova Scotia  
 Sub Committee on Youth Unemployment  
 Sudbury 2001  
 Sudbury Federal New Democratic Party  
 Sun Life Assurance Co. of Canada  
 Sutherland, R.E.  
 Swanson, M.L.  
 Sydney Steel Corporation

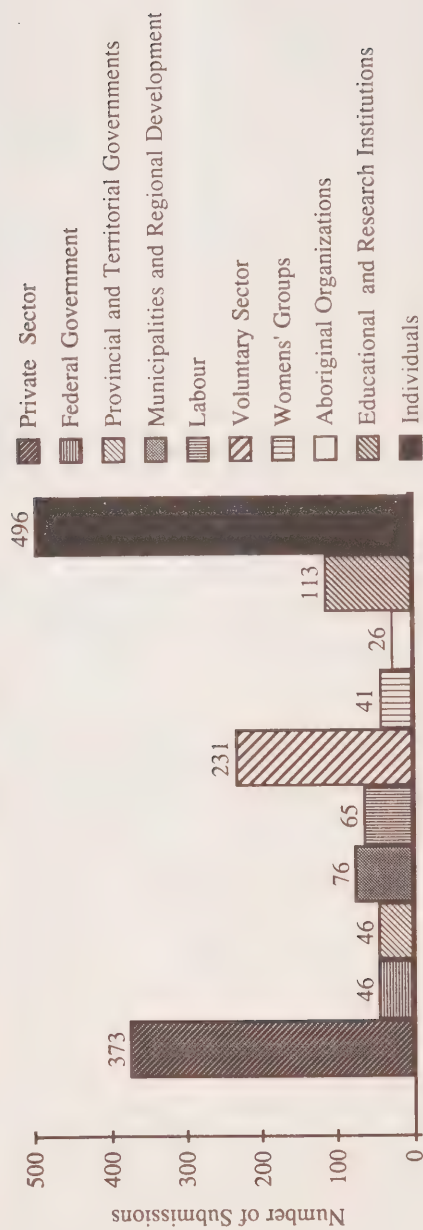


Syed, Javed  
 Symes, Beth and Marilou McPhedran  
 Syms, J.C.  
 Syndicat des producteurs de bois de la Beauce  
 Syndicat des travailleurs de la société asbestos limitée inc.  
 Tallman, F.R.J.  
 Task Force on Micro-Electronics and Employment  
 Taylor, A.  
 Taylor, D. Angus  
 Technical University of Nova Scotia  
 Teconomics Limited  
 Telephone Pioneers of America (Canada - Region 1)  
 Thakur, Hari K.  
 Therriault, Clément Guy  
 3rd Dimensions and Associates Limited  
 Thomas, F.R.  
 Thomas, Morley  
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 Thompson Chamber of Commerce  
 Thompson Industrial Commission  
 Thompson, Brian  
 Thompson, Dixon  
 Thompson, Fred G.  
 Thompson, Kirk  
 Thunder Bay and District Council of Clergy  
 Thunder Bay and District Labour Council  
 Thunder Bay Economic Development Corporation  
 Thunder Bay Indian Youth Friendship Society  
 Thunder Bay Multicultural Association  
 Toolsie, Rampersand  
 Toppin, Don  
 Toronto Board of Education  
 Toronto Jewish Congress  
 Tourism Industry Association of Canada (Montreal)  
 Tourism Industry Association of Canada (Ottawa)  
 Town of Oromocto  
 Town of Prescott  
 Town of Swan River  
 Transalta Utilities Corporation  
 Travel Industry Association of the Northwest Territories  
 Trent University  
 B.A. Tripp and Associates Limited  
 Trust Companies Association of Canada  
 Trzeciecki, Mike A.  
 TVOntario  
 Twigg, John  
 Ubriaco, Rita  
 Ultramar Canada Inc.  
 Unemployment Committee of Regina  
 Union des municipalités du Québec  
 Union of Ontario Indians  
 United Church of Canada, Working Unit on Social Issues and Justice  
 United Grain Growers Limited  
 United Mine Workers of America, District 18  
 United Mine Workers of America, District 26  
 United Native Nations  
 United Steelworkers of America  
 United Steelworkers of America, Hamilton Steelworkers Area Council

United Steelworkers of America, Local 6500  
 United Steelworkers of America, Local 6166  
 United Steelworkers of America, Local 1064  
 United Steelworkers of America (Whitehorse)  
 United Way Canada  
 United Way of Central Quebec  
 United Way of Fredericton  
 United Way of Greater Toronto  
 United Way of Montreal  
 United Way of Ottawa-Carleton  
 United Way of Quebec  
 United Way of the Lower Mainland  
 United Way of Thompson  
 United Way of Winnipeg  
 University College of Cape Breton  
 University of Alberta Association of Academic Staff  
 University of British Columbia, Centre for Continuing Education  
 University of Calgary Faculty Association  
 University of Calgary Students' Union  
 University of Lethbridge  
 University of Manitoba, Faculty of Agriculture  
 University of Regina  
 University of Regina Faculty Association  
 University of Saskatchewan, MBA Students, College of Graduate Studies  
 University of Toronto, Students Administrative Council  
 University of Waterloo  
 University of Windsor  
 University of Windsor, International Business Studies Research Unit  
 University of Winnipeg Working Group  
 Urban Development Institute Canada  
 Urban Transportation Development Corporation Limited  
 Ursel, Norman H.  
 Valcin, Yvon  
 Van Leeuwen, Bert  
 Van Roggen, The Honourable Senator George  
 Vancouver Board of Trade  
 Vancouver Island Building and Construction Trades Council  
 Vancouver Unemployed Action Centre  
 Vancouver Women in Trades Association  
 Vanier Institute of the Family  
 Via Rail Canada Inc.  
 Victoria Labour Council  
 Vincent, Kimbell R.  
 Vogler, Kersten H.O.  
 Voluntary Planning Board  
 Volunteer Centre of Calgary  
 Vosper, Velma  
 Wahn, J.D.  
 Wallace, James  
 Wallace, Scott A.  
 Walsh, E.D.  
 Ward, Neil  
 Wardair International Limited  
 Warner, G.B.  
 Warner, I.D.  
 Watson, John R.  
 Wayman, Morris  
 Weaver, Bill W.

Webb, Geoff  
 Webb, J. Tom  
 Weeren, Donald J.  
 Wepler, Reuben  
 Weser, Ernest J.  
 Western Constitutional Forum  
 Western Energy Investments Limited  
 Western Stock Growers' Association  
 Western Transportation Advisory Council  
 George Weston Limited  
 Whelan, The Honourable Eugene F.  
 White, Walter E.  
 Whitehorse Chamber of Commerce  
 Whitney, Joanne  
 Whyte, John Donaldson  
 Wiggett, Edward G.  
 Wilkinson, Ken  
 Willey, Gerald A.  
 Williams, Merlyn M.  
 Williamson, Ian B.  
 Wills, Charles E.  
 Willson, Bruce F.  
 Willson, W.H.  
 Wilson, L.R.  
 Windsor and District Labour Council  
 Windsor Chamber of Commerce  
 Windsor Coalition for Development  
 Windsor Women's Incentive Centre  
 Windsor-Essex County Development Commission  
 Winnipeg Chamber of Commerce  
 Winnipeg Co-ordinating Committee for Disarmament  
 Winnipeg Commodity Exchange  
 Winnipeg Labour Council  
 Wise, Dorothy  
 Women Against the Budget  
 Women and Economic Development Committee of the Northwestern Ontario  
     Women's Decade Council  
 Women United for a Non-Exploitive New Age  
 Women Unlimited  
 Women's Information and Referral Centre  
 Women's Involvement Committee of Upper Trinity South  
 Women's Network Inc.  
 Woodbridge, Reed and Associates Limited  
 Woods, Elizabeth  
 World Federalists of Canada  
 Wyeth Limited  
 Yorston, Wilfred  
 Young Women's Christian Association of Calgary  
 Young Women's Christian Association of Canada  
 Young Women's Christian Association of Metropolitan Toronto  
 Young Women's Christian Association of Thompson  
 Young, David R.  
 Yukon Chamber of Mines  
 Yukon Territorial Public Service Association  
 Yukon Visitors Association  
 Zimmermann, Hans G.

## Written Submissions to the Commission







# Schedule of Provincial and Territorial Government Participation

	Date of Hearing
British Columbia <sup>3</sup>	20 June 1983 <sup>1</sup>
Alberta	18 June 1983 <sup>1</sup> 15 November 1983 <sup>1</sup>
Saskatchewan	28 March 1983 <sup>1</sup> 23 November 1983 <sup>2</sup>
Manitoba <sup>3</sup>	29 March 1983 <sup>1</sup> 28 November 1983 <sup>1</sup>
Ontario	21 February 1983 <sup>1</sup> 5 December 1983 <sup>2</sup>
Quebec <sup>3</sup>	28 February 1983 <sup>1</sup> 27 October 1983 <sup>1</sup>
New Brunswick	2 June 1983 <sup>1</sup> 23 September 1983 <sup>2</sup>
Nova Scotia	18 January 1983 <sup>1</sup> 13 October 1983 <sup>1</sup>
Prince Edward Island	3 June 1983 <sup>1</sup> 9 December 1983 <sup>1</sup>
Newfoundland and Labrador	24 February 1983 <sup>1</sup> 20 September 1983 <sup>2</sup>
Yukon	31 March 1983 <sup>1</sup> 9 September 1983 <sup>2</sup>
Northwest Territories	30 March 1983 <sup>1</sup> 12 September 1983 <sup>2</sup> 27 November 1984 <sup>1</sup>

<sup>1</sup> private meeting<sup>2</sup> public hearing<sup>3</sup> no written submission received





# Schedule of Federal Government Participation

Atomic Energy of Canada Ltd.  
Canadian Forestry Service  
(Environment Canada)  
Canadian Saltfish Corporation  
Economic Council of Canada  
Environment Canada  
Heritage Canada Foundation  
Minister of Agriculture  
Minister of Communications  
Minister of Consumer and Corporate  
Affairs  
Minister of Health and Welfare  
Minister of Indian Affairs and Northern  
Development  
Minister of Labour  
Minister of State for Economic and  
Regional Development and Minister  
Responsible for Science and  
Technology  
Minister of State for Social  
Development  
Minister of State for Multiculturalism  
Minister of Transport  
Minister Responsible for the  
Status of Women  
National Research Council of Canada  
Natural Sciences and Engineering  
Research Council of Canada  
Northern Canada Power Commission  
Petro-Canada  
Science Council of Canada  
Standards Council of Canada  
Via Rail Canada Inc.

## Location and date of hearing

Hull, December 14, 1983  
  
Not heard  
St. John's, September 21, 1983  
Toronto, December 8, 1983  
Not heard  
Hull, December 12, 1983  
Regina, November 24, 1983  
Montreal, November 3, 1983  
  
Not heard  
Not heard  
  
Not heard  
Ottawa, December 16, 1983  
  
St. John's, December 21, 1983  
  
Vancouver, September 8, 1983  
Not heard  
Winnipeg, November 28, 1983  
  
Ottawa, December 15, 1983  
Hull, December 14, 1983  
  
Hull, December 14, 1983  
Whitehorse, September 10, 1983  
Toronto, December 2, 1983  
Hull, December 14, 1983  
Ottawa, December 16, 1983  
Ottawa, December 16, 1983







## Schedule of Local and Regional Government Participation

City of Vancouver	September 6, 1983
District of Chilliwack	September 6, 1983
City of Whitehorse	September 9, 1983
City of Prince George	September 12, 1983
District of Mackenzie	September 12, 1983
Village of Pouce Coupe	September 12, 1983
Peace River-Liard Regional District	September 12, 1983
City of Yellowknife	September 13, 1983
City of Charlottetown	September 19, 1983
City of Sydney	September 22, 1983
City of Moncton	September 22, 1983
Town of Oromocto	Not Heard
City of Fredericton	September 23, 1983
Town of Frobisher Bay	September 26, 1983
Town of Inuvik	September 29, 1983
Community of Rankin Inlet	October 1, 1983
Municipality of Halifax County	October 11, 1983
Municipality of the District of Lunenburg	Not Heard
City of Halifax	October 13, 1983
City of Windsor	October 17, 1983
City of Thompson	October 19, 1983
District of Lynn Lake	October 19, 1983
Regional Municipality of Sudbury	October 19, 1983
Municipality of Shipshaw	October 27, 1983
City of St. George-de-Beauce	Not Heard
City of Chicoutimi	October 27, 1983
City of Jonquière	October 27, 1983
Town of Anjou	October 31, 1983
City of Calgary	November 7, 1983
City of Lethbridge	November 10, 1983
City of Edmonton	November 14, 1983
Town of Swan River	Not Heard
City of Winnipeg	November 28, 1983

Municipality of Metropolitan Toronto	December 1, 1983
Corporation of the	
Borough of East York	Not Heard
Regional Municipality of York	December 9, 1983
Town of Prescott	Not Heard
Town of Carlyle	December 12, 1983
City of Ottawa	December 16, 1983
City of Hull	December 16, 1983



## Schedule of Participants in Public Hearings Fall 1983

*Vancouver, British Columbia  
September 6, 1983*

### **Canadian Manufacturers' Association**

Vern C. German, Chairman  
William B. Boggs, Immediate Past Chairman; Chairman, Canada Systems Group  
Doreen Braverman, Director; President, Fleming Decal and Sign Limited  
Peter O'Dell, Director; General Manager, Borden Chemical, Western Division  
Graeme C. Hughes, Executive Vice-President and Secretary  
J. Laurent Thibault, Executive Vice-President  
Charles Garneau, Assistant Secretary to the Board

### **Canadian Council on Social Development**

Michael Clague, President and Chairman  
Terrance Hunsley, Executive Director

### **City of Vancouver**

Michael Harcourt, Mayor of Vancouver  
Brian Carter, Consulting Economist, Vancouver Economic Advisory Commission  
(VEAC)  
Thomas Hutton, VEAC Secretariat; Assistant Manager, Economic Development  
Office, City of Vancouver  
Stuart Backerman, Social Planner (Cultural Affairs), Social Planning Department,  
City of Vancouver  
Shirley Chan, Executive Assistant

### **Operation Solidarity**

Art Kube, President, B.C. Federation of Labour  
Larry Kuehn, President, B.C. Teachers' Federation  
Pam Chapple, Health Sciences Association  
Nora Paton, Chief Executive Officer, B.C. Nurses' Union  
Clay Perry, B.C. Federation of Labour

**District of Chilliwack**

G.B. Clark, Mayor of Chilliwack  
Jerry Pirie, Alderman

**Pacific Group for Policy Alternatives**

David D. Schreck, Pacific Group Steering Committee  
David Rice, Pacific Group Steering Committee

**B.C. Central Credit Union**

Harry A. Down, Chief Executive Officer, First Pacific Credit Union  
P.P. Podovnikoff, Chief Executive Officer, B.C. Central Credit Union  
Richard J. Thomas, Director, Government Affairs

**Mining Association of British Columbia**

Tex C. Enemark, President and Chief Executive Officer  
A.J. Petrina, Senior Vice-President and Chief Operating Officer, Placer Development Limited  
Ralph W. Huenemann, Director of Research, Mining Association of British Columbia

*Vancouver, British Columbia  
September 7, 1983*

**Theme Panel: The Global Economy**

The Honourable Senator George Van Roggen  
Bernard Wood, Director, North-South Institute  
Philip C. Barter, Chairman, Vancouver Board of Trade  
Jim Matkin, President, Employers' Council of British Columbia  
Michael Goldberg, Associate Dean of Commerce and Business,  
University of British Columbia  
Jack Munro, President, International Woodworkers of America,  
Regional Council No. 1  
Philip Legg, Assistant Research Director, International Woodworkers of America,  
Regional Council No. 1

**British Columbia and Yukon Territory Building and Construction Trades Council**

Roy Gautier, President  
Clive Little, Director, Communications and Education

**Mainland Dairymen's Association**

Albert Van Esch

**The Roberts Group**

Stan C. Roberts, President, Fraser Resources Inc.; Chairman,  
Swinwood and Associates Inc.

**Registered Nurses' Association of British Columbia**

Bernadet Ratsoy, President  
Gloria Parker, Vice-President  
Pat Cutshall, Executive Director  
Elizabeth Kirkwood, Director

**British Columbia Health Association**

Charles W. Grierson, President  
Patricia Wadsworth, Executive Director  
E.M. Tomasky, Assistant Executive Director, Administrative Services



*Vancouver, British Columbia*  
*September 8, 1983*

**Association of British Columbia Professional Foresters**

Peter Ackhurst, President; Forestry Manager, Vancouver Region,  
B.C. Ministry of Forestry  
William Dumont, Vice-President  
R. Jones, Consulting Forester

**Council of Forest Industries of British Columbia**

Ron Longstaffe, Chairman; Executive Vice-President,  
Canadian Forest Products Limited  
David McInnes, First Vice-Chairman; President and Chief Executive Officer,  
Weyerhaeuser Canada Limited  
Tom Rust, Former Chairman; President and Chief Executive Officer,  
Crown Zellerbach Canada Limited  
Don Lanskail, President and Chief Executive Officer

**Peter McCormick and Gordon Gibson**

**The Honourable Senator Jack Austin**, Minister of State for Social Development

**Fédération des franco-colombiens**

Marc Roy, President  
Claude Roberge, Political and Economic Officer  
Pierre Lapointe, President, Chambre de commerce franco-colombienne

**Assembly of British Columbia Arts Councils**

Donna V. Yates, President  
Bruce Hunter, Director; Honorary Treasurer, Community Arts Council of Vancouver  
Anne Macdonald, Executive Director, Community Arts Council of Vancouver

**Placer Development Limited**

C. Allen Born, President, Chairman and Chief Executive Officer

**H.N. Halvorson Consultants Limited**

H.N. Halvorson

**University of British Columbia Centre for Continuing Education**

Ann Ironside, Program Director of Public Affairs; President, Canadian Association  
for Adult Education  
Vince Battistelli, Associate Director

**David R. Young**

*Vancouver, British Columbia*  
*September 9, 1983*

**British Columbia Law Union**

Judi Gedye, Barrister and Solicitor  
Craig Paterson, Barrister and Solicitor  
Doug Sanders, Professor of Law, University of British Columbia  
Paisley Woodward, Researcher

**Asia Pacific Foundation of Canada**

John Bruk, Chairman

**British Columbia Association of Social Workers**

Stuart Alcock, Vice-President

Christopher J. Walmsley, Executive Director

**Social Planning and Review Council of British Columbia**

Tim Beachy, President

Richard B. Splane, Immediate Past President

Virginia Langdon, Executive Director

**Federated Anti-Poverty Groups of B.C.**

Gus Long, Editor

Barbara Davies, Co-ordinator, Co-Pro

Mary Billick, Co-ordinator, Community Housing Registry

**First United Church**

Leslie Black, Community Worker

Linda Ervin, Commissioned Minister and Community Worker

**British Columbians for Mentally Handicapped People**

Val Fish, Moderator; Employment Presenter

Janice Balfour, Housing Presenter

Jim Balfour, Assistant to Moderator

Peter Russell, People First, North Shore

**André Sobolewski****Women Against the Budget**

Diane Ellis, Women's Research Centre

Megan Ellis, Women Against the Budget

**Bill W. Weaver****Vancouver Women in Trades Association**

Kate Braid

Allison Stewart

J. Blair

**British Columbia Institute of Technology**

Gordon Thom, President

Drug Svetic, Vice-President of Education

Craig Greenhill, Director, Planning

Duncan MacPherson, Vice-President, Administration; Bursar

David Hume, Provincial Consultant

*Whitehorse, Yukon**September 9, 1983***Government of Yukon**

The Honourable C.W. Pearson, Commissioner

J. Ferbey, Deputy Minister of Economic Development and Intergovernmental Affairs

F. Fingland, Deputy Minister of Finance

**City of Whitehorse**

Florence Whyard, Mayor of Whitehorse

John Pearce, Alderman

*Whitehorse, Yukon  
September 10, 1983*

**Yukon Visitors' Association**

Barry Redfern, Executive Director

June Hampton, President

William Braden, Government-Industry Relations Committee

**Northern Canada Power Commission**

J. Smith, Chairman and Chief Executive Officer

Harold Kaldor, Regional Administrator

Mel Foster, Financial Consultant

**Association of Yukon Communities**

André Carrell, Executive Director

**Council for Yukon Indians**

Joe Willie, Vice-Chairman, Economic Development

**Whitehorse Chamber of Commerce**

Patrick Dixon, President

**Yukon Chamber of Mines**

G. MacDonald, President

**Yukon Teachers' Association**

G. Johnston

**Yukon Territorial Public Service Association**

Jim McCullough, Business Agent

**United Steelworkers' Union**

B. Rudychuk

S. Frei, President, Local 8243 (Faro)

J. Kline, President, Local 953 (Tungsten)

D. Rody

**Status of Women Council**

Audrey Lougheed

*Yellowknife, Northwest Territories  
September 12, 1983*

**Government of the Northwest Territories**

The Honourable Arnold James McCallum, Minister of  
Economic Development and Tourism

**Métis Association of the Northwest Territories**

Wally Firth, President

Harold Cook, Vice-President

Larry Tourangeau, Vice-President

**Northwest Territories Chamber of Mines**

Terrence Daniels, General Manager

**Consumers' Association of Canada (Yukon Branch)**  
Sandra Ketchum, President  
Chris Tricoteux, Vice-President  
Anna-Marie Dawe, Northwest Territories National Board  
Joan Halpenny, Former President

**Northwest Territories Registered Nurses' Association**  
Patricia Felhaver, President

**Northwest Territories Motor Transport Association**  
Mr. Ladorbruk

**Northwest Territories Teachers' Federation**  
Blake Lyons

*Yellowknife, Northwest Territories*  
*September 13, 1983*

**Northwest Territories Association of Municipalities**  
Anita Perry, Executive Director

**Inuvik Chamber of Commerce**  
D. Hill, Executive Director

**Dene Nation of the Northwest Territories**  
Steven Kakfwi

**Nunavut Constitutional Forum**  
The Honourable Dennis Patterson, Chairman

**Lynda Sorenson, MLA**

**City of Yellowknife**  
Michael Ballantyne, Mayor of Yellowknife

**Travel Industry Association of the Northwest Territories**  
Patricia McMahon  
Andrew Goussaert  
Albert Eggenberger

**Storefront for Voluntary Agencies**  
Elizabeth Seaton, Executive Director  
Gary Lathan, Executive Director, YWCA  
Michèle Boon, President, YWCA  
Eya Lewycky, Executive Director, Mental Health N.W.T.  
Chris Allerston, Supervisor, Yellowknife Day Care Association

**Northwest Territories Public Service Association**  
Andrew T. Lamb

**Stefan Simek**

**Northwest Territories Friendship Centres**  
Tom Eagle, President



*Prince George, British Columbia  
September 12, 1983*

**Mr. O'Connor**

**Northern Development Council of British Columbia**

E. Mercier, Chairman; Mayor of Prince George  
J. Hannam, Deputy-Chairman; Chairman, Peace River-Liard Regional District  
M. Lalogue, Mayor of Pouce Coupe  
V. Ciccone, Administrator, District of Mackenzie

**College of New Caledonia**

Charles J. McCaffray, Principal

**Carrier Sekani Tribal Council**

Archie Patrick, President  
Edward John, President, Tunnisal Timber

**Prince George and District Senior Citizens Activity Centre Society**

A. Holdner, President  
K. Matthews, Director  
Z. Taylor, Secretary

**Immigrant and Multicultural Services Society**

Dietrich Elias, Vice-Chairman  
R. Yip, Finance Chairman  
G. Baldwin, Legal Advisor

**Prince George and District United Way**

Murry Krause, Executive Director  
Maureen Pfliger, Executive Director, Prince George Crises Intervention Society  
Susan Cook, Regional Director, Northern B.C. and Yukon Canadian Red Cross Society  
Mike Millard, Executive Director, YM/YWCA  
Brian Gardiner, Executive Director, Big Brothers/Big Sisters  
Lorna Dittmar, Executive Director, Prince George Association for Individuals with Mental Handicaps

**Community Seminar**

Charles J. McCaffray, Principal, College of New Caledonia  
M. Hill, Aim High: Association for the Mentally Handicapped  
Monica Becott, Town Centre Business Association  
John Backhouse, Alderman; Regional Librarian, College of New Caledonia  
L. Dino, Head Librarian, Prince George Public Library

**Paul McCallum**

*Prince George, British Columbia  
September 13, 1983*

**Council on Forest Industries, Northern Interior Lumber Sector**

John F. Whitmer, President, Balfour Forest Products Inc.  
Russ J. Clinton, Vice-President, Woodlands, West Fraser Mills Limited  
Don H. Gould, General Manager, The Pas Lumber Company Limited

Mark H. Gunther, Group Vice-President, Pulp and Paper,  
Canadian Forest Products Limited

**Prince George and District Labour Council**

Donna Sacuta, Secretary-Treasurer

C. Hatherly, Executive Board

Ernie Myers, Executive Board

Bev Robinson, Co-ordinator, Prince George Unemployed Action Centre

**Prince George Chamber of Commerce**

Richard Ingram, President

**Robert Dhensaw**

**Prince George Region Development Corporation**

B. Philips, President

D. McMann, Manager

**Economic Development Commission, Cariboo Regional District**

Mary Ellen Glover, Economic Development Commissioner

R. Fossum

L. Urquhart

*Victoria, British Columbia*

*September 14, 1983*

**Software Industry Development Association**

D. H. Keen, Chairman

R. Fast, Vice-Chairman; President, Canadian Information Processing Society

Raymond G. Ginnever, Director, KG Consulting Limited

Len Bruton, Dean of Engineering, University of Victoria

Donald A. Alexander, Intercontinental Computer Technology Limited

**The Honourable Jack Davis, MLA**

**Rod Dobell**, Professor of Public Administration, University of Victoria

**Greater Victoria Chamber of Commerce**

W. T. Anderson, Immediate Past President

A. Lane, Past President

J. Currie, Vice-President

C. Steele, Past President

**Sierra Club of Western Canada**

Jim Bonfonti, Chairman

Michael Doherty, Regional Conservation Representative

**Capital Families**

Bernice Levitz Packford, Executive Director

David Nordstrom, Co-ordinator, Links Program for Parents of Teens

*Victoria, British Columbia*

*September 15, 1983*

**Vancouver Island Building and Construction Trades Council**

Jack Zettler, Trustee

Christopher Jones, Secretary-Treasurer

**Keith Cowan**

**G. W. MacLaren**

**District of Shuswap-Revelstoke**

Cliff Michael, MLA

Marlene Floss

George Gybo

**Victoria Labour Council**

J. W. Groves, Secretary-Treasurer

**Status of Women Action Group**

Stella Lord, Co-ordinating Committee

Diana Butler, Treasurer

**Frances A. Ricks**, School of Child Care, University of Victoria and

**Jim Ricks**, Director, Integrated Services, Child and Family Development

**United Native Nations, Zone Five**

Vic Wells, Chairperson

M. Crossley

**Nuu-chah-nulth Tribal Council**

George Watts, Chairman

**Local Exchange Trading System**

Michael Linton, Trustee

Lori Milne, Advisor

**Women United for a Non-Exploitive New Age**

Mary Christodoulou, Co-ordinator

**Community Council of Greater Victoria**

James Anglin, Vice-President

Derek Dashwood

*Charlottetown, Prince Edward Island*

*September 19, 1983*

**Charlottetown Chamber of Commerce**

David W. Hooley, President

Keith Mullins, General Manager

**Atlantic Provinces Chamber of Commerce**

William Wedlock, Chairman, Summerside, P.E.I.

Stuart Peters, Chairman-Elect and Vice-Chairman, Halifax, N.S.

J. Kenneth Langdon, President, Moncton, N.B.

**Greater Summerside Chamber of Commerce**

Derek D. Key, President-Elect

Earl G. Cannon, General Manager

**Canadian Manufacturers' Association (P.E.I. Branch)**

Wendell MacDonald, Chairman-Elect

John Morrisson, Vice-Chairman  
C. M. Hickey, Secretary-Manager

**City of Charlottetown**

Frank Moran, Mayor of Charlottetown  
George MacDonald, Alderman; Chairman, Town Planning Board  
Harry Gaudet, Development Officer

**Maritime Electric Company Limited**

R. W. Smith, President  
W. G. Lea, Counsel and Director

**Horace B. Carver, MLA**

**National Farmers Union**

Marie Hendricken, Women's Advisory Committee  
Alan Ling

**Prince Edward Island Federation of Agriculture**

Eldred Simmons, President  
Eric Hammill, Secretary-Manager

**Prince Edward Island Egg Commodity Marketing Board**

Bert Haneveld, Chairman  
A. Macdonald, Manager

**Donald Glendenning, President, Holland College**

**Social Action Committee of the Roman Catholic Diocese of Charlottetown**

Mary Boyd, Director  
Michael Leclair  
J. P. Hendriken

**Prince Edward Island Advisory Council on the Status of Women**

D. M. Crane  
H. Orford  
H. Macdonald

*St. John's, Newfoundland*  
*September 20, 1983*

**Newfoundland and Labrador Federation of Municipalities**

Ron Fagan, President  
Doug Smith, Executive Director

**Ocean Harvesters Limited**

Alec Moores, General Manager

**Government of Newfoundland and Labrador**

The Honourable Brian Peckford, Premier  
Cyril Abery, Deputy Minister, Intergovernmental Affairs Secretariat  
B. E. Knight, Director, Economic and Social Programs,  
Intergovernmental Affairs Secretariat  
David Vardy, Clerk of the Executive Council



**Newfoundland Light and Power Co. Limited**

D. Templeton, President  
A. Ryan, Vice-President, General Manager  
D. Black, Legal Counsel  
J. Landrigan, Staff Analyst

**Newfoundland and Labrador Federation of Labour**

William A. Parsons, President  
Frank Taylor, Secretary-Treasurer  
Nancy Riche, Eastern Vice-President  
D. McGrath, Newfoundland Fish Food and Allied Workers Union

**Women's Involvement Committee of Upper Trinity South**

Wendy Murdoch, President  
Florence Cranford  
Evelyn Cranford

**Harold L. Snyder**, Director, Centre for Cold Ocean Resources Engineering,  
Memorial University of Newfoundland

**Abe Peters**, President, ACTRA (Newfoundland and Labrador Branch)

**P. Dunn**

**Newfoundland and Labrador Human Rights Association**

B. Riggs, President

*St. John's, Newfoundland*

*September 21, 1983*

**St. John's Board of Trade**

Bernie Beckett, Vice-President, Government Affairs  
Greg Canning, Director of Legislation  
Doug May, Royal Commission Committee  
Brian Greene, Assistant General Manager

**William Wells**, President, Canadian Saltfish Corporation

**The Honourable Donald Johnston**, Minister of State for Economic and Regional

Development and Minister of State for Science and Technology

Harry Swain, Departmental Secretary, MSERD

Gordon Slade, Federal Economic Coordinator, Newfoundland

**Liberal Party of Newfoundland**

Steven A. Neary, Leader of the Opposition  
Melvin Baker, Researcher

**Provincial Advisory Council on the Status of Women (Newfoundland and Labrador)**

Ann Bell, President  
Nancy Riche, Eastern Vice-President, Newfoundland and Labrador  
Federation of Labour  
D. Robbins, Administrator

**Memorial University of Newfoundland, Faculty of Business Administration**

James Barnes, Dean of Business Administration  
Robert Sexty, Professor

**Newfoundland and Labrador Arts Council**  
Ken Pittman, Executive Director

**Newfoundland Association of Social Workers**  
Wanda Lundrigan, President  
Maureen Browne, Chairperson, Social Policy and Planning Council

**Community Services Council of Newfoundland and Labrador**  
Karen McGrath, President  
John O'Brien, Treasurer; Chairman, Research Advisory Committee  
Frank Hawkins, Past President  
Penelope Rowe, Executive Director

**Newfoundland and Labrador Youth Advisory Council**  
Sean Daley, Chairman  
Alanna M. Hanrahan, Executive Secretary  
Douglas Riche, Provincial Coordinator

*Sydney, Nova Scotia*  
*September 22, 1983*

**Cape Breton Joint Expenditure Board**  
Jim Cunningham, Executive Director  
J. Wadden, Warden, County of Cape Breton  
M. Macdonald, Mayor of Sydney  
J. MacCormack, Administrator, Community and Social Development, City of Sydney

**Cape Breton Development Corporation**  
A. Roy Maclean, Vice-President, Corporate Planning  
John Dodge, Vice-President, Industrial Development  
A. Verschuren, Director, Long-Range Planning

**Sydney Steel Corporation**  
J. D. Coffin, Manager, Traffic  
H. S. MacLeod, Executive Assistant to the President  
L. A. Hicks, Manager, Commercial Services  
J. W. Macdonald, Manager, Marketing

**United Steelworkers of America, Local 1064**  
Paul Grezel, President  
Benny O'Neill, Financial Secretary  
Winston S. Ruck, Staff Representative

**United Mine Workers of America, District 26**  
Bob Burchell, International Teller, Canada

**University College of Cape Breton**  
W. M. Reid, President

**Industrial Cape Breton Board of Trade**  
Hector Dipersio, President  
Wayne Lorway, Chairman, Government Affairs Committee  
W. MacIntyre

**Coalition of Social Organizations in Cape Breton**  
Reverend J. Capstick, President

Sister P. Butts, Political Scientist, University College of Cape Breton  
Richard Seigny, Director, Family Services of Eastern Nova Scotia  
J. Currie, Manager, Steelmaking, Sydney Steel Corporation  
Mary Kay MacLeod, Beaton Institute, University College of Cape Breton

**The Honourable Vincent J. MacLean, MLA**

**Women Unlimited**

Elizabeth Cusack Walsh  
Cheryl AuCoin  
Fran Manson

**Federation of Community Development Corporations of Canada**

Greg MacLeod, President  
Tom O'Leary, Executive Director

**New Dawn Enterprises Limited**

R. MacSween, Chairman  
Marcel Leroy, Board of Directors  
John Hanratty, Research Officer

**Reverend A. Maroun**, President, Cape Breton Alternate Energy Society

*Moncton, New Brunswick  
September 22, 1983*

**City of Moncton**

George S. Rideout, Mayor of Moncton  
Murray MacLean, City Manager

**Conseil économique du Nouveau-Brunswick inc.**

Jean Chiasson, President  
Ronald Leblanc, Professor of Economics, University of Moncton  
Rino Volpé, Vice-President, Marketing, Compagnie Assomption Mutuelle-Vie  
Valmond Chiasson, President, Association des empaqueteurs de poisson du  
Nouveau-Brunswick  
Georges Wybouw, Director, Administration Research Centre, University of Moncton

**Activités-Jeunesse**

Marie-France LeFort, President  
Joseph LaBelle, Executive Director

**René Didier**, Dean of Administration, University of Moncton

**Federation of New Brunswick Faculty Associations**

C.W.J. Eliot, President  
Catherine Dagg-Murphy, Executive Director  
Donald Poirier  
Arsène Richard

**Fisheries Council of Canada**

Ronald W. Bulmer, President  
Ian Langlands, Past Chairman; Vice-President, National Sea Products Limited  
F.J. Frontain, National Vice-Chairman; Marketing Manager,  
United Maritime Fishermen

**New Brunswick Federation of Labour**

Timothy McCarthy, President  
J. Albert Richardson, Secretary-Treasurer  
John Murphy, Executive Secretary

**New Brunswick Association of Métis and Non-Status Indians**

Philip D. Fraser, Vice-President

**Moncton Volunteer Centre**

Steven Campbell, Chairman, Advisory Board

**New Brunswick Advisory Council on the Status of Women**

Madeleine LeBlanc, Chairperson  
Elsbeth Tullock, Researcher

**Bernard Bujold**

*Fredericton, New Brunswick  
September 23, 1983*

**City of Fredericton**

Elbridge Wilkins, Mayor of Fredericton  
George Robinson, Councillor  
Richard Danziger, Director of Planning  
John Robison, City Administrator

**Capital Region Development Commission Inc.**

John S. MacGillivray, President  
Stanley R. Price, General Manager  
Linda M. Furlough, Assistant to the General Manager  
G. Robinson

**Maritime Lumber Bureau**

Anthony E. Rumbold, Executive Director

**New Brunswick Telephone Company Limited**

James A. Coombs, Vice-President, Operations

**Government of New Brunswick**

The Honourable Richard Hatfield, Premier

**Liberal Party of New Brunswick**

J. Raymond Frenette, Leader of the Opposition  
Ronald LeBlanc, Economic Advisor  
William Connell, Researcher, Opposition Office

**New Brunswick New Democratic Party**

Robert Hall, MLA  
Tom Good, MLA, Finance and Energy Critic  
David Brown, MLA, Social Services Critic  
Allayne Armstrong, MLA, Critic on Women's Issues  
Jules Halé, Council of Beresford

**Saint John Board of Trade**

Mary E. Travis, President



Lynda A. Heffernan, General Manager  
Paul Hansen, Assistant Manager, Saint John-Fundy Region  
Development Commission

**Fredericton Chamber of Commerce**

Bryan Ferguson, Consultant  
David McClure, Computer Sales  
Josh Shea, Managing Director, Modern Building Cleaning (NB) Limited

**United Way of Fredericton**

J. Andrew Cook, President  
Kenneth Bartlett, Executive Committee  
Sharon Cupples, Director

**Association of University of New Brunswick Teachers**

Gerald M. Clarke, President  
Allan Sharp, Vice-President  
Jon Thompson, Past President

**Faculty Association of St. Thomas University**

Howard Cody, Assistant Professor of Political Science  
Claudia Whalen, Associate Professor of Psychology  
Joan McFarland, Associate Professor of Economics  
John Patterson, Assistant Professor of Romance Languages, French  
Roger Moore, Professor of Romance Languages, Spanish

**Peter Salonijs**

*Frobisher Bay, Northwest Territories  
September 26, 1983*

**John Amagoalik**

**Martine Johnson**, Mayor of Frobisher Bay

**Cynthia Mallin**, Baffin Tourist Association

**William Kungl**, President, Chamber of Commerce

**Des Micklos**, Frobisher Inn

**Brian Pearson**

*Cambridge Bay, Northwest Territories  
September 28, 1983*

**Pearl Benijk**, Communications Officer, Kitikmeot Inuit Association

**Don McGillivray**, Teacher

**Stephen Bedingfield**, Cambridge Bay Housing Association

**Peter Scott**, Superintendent, Economic Development and Tourism,  
Government of the Northwest Territories

**Keith Peterson**, Commerce Officer, Government of the Northwest Territories

*Cambridge Bay, Northwest Territories*  
*September 29, 1983*

**George Hargrave**, Trainer, Inuit Broadcasting Corporation

**Students from Ilihakuik School**

**Howard Jones**

**John Komack**, Ikaluktutiak Eskimo Co-operative

**Harold Greary**, Manager, Fred H. Ross and Associates

**Residents of Cambridge Bay**

*Inuvik, Northwest Territories*  
*September 29, 1983*

**John Hill**, Deputy Mayor of Inuvik

**Doug Billingsley**

**William Nasogaluak**

**Gary Morrison**, Northwest Territories Teachers' Association

**Chief MacCaulley**, Inuvik Dene Band

**Cynthia Creelman Hill**

*Tuktoyaktuk, Northwest Territories*  
*September 30, 1983*

**Father Lemeur**

*Rankin Inlet, Northwest Territories*  
*October 1, 1983*

**Henry Kablalik**, Deputy Mayor of Rankin Inlet

**Peter Ernerk**, Keewatin Inuit Association

**George Wesko**

**Cathy Towtongie**, Executive Officer, Keewatin Regional Council

**John Todd**, President, Keewatin Chamber of Commerce

**Jack Anawak**, Vice-President, Keewatin Inuit Association

**David Mellany**, Environmental Consultant

**Gordon Ray**, Legislative Assembly, Keewatin North

**Caroline Anawak**, Rankin Inlet Community Education Committee

*Halifax, Nova Scotia*

*October 11, 1983*

**Mount St. Vincent University**

Margaret Fulton, President

Christine Ball, Co-ordinator, Women's Studies Programme

Susan Clark, Dean of Professional and Human Resource Development

Wendy MacLean, Assistant Professor of Economics

**Britex Limited**

Sandy Archibald, President

**Municipality of Halifax County**

Arthur MacKenzie, Warden

Murdock MacKay, Chairman, Halifax County Industrial Commission

Kenneth Meech, Chief Administrative Officer

Jack MacLeod, Consultant, Halifax County Industrial Commission

**Technical University of Nova Scotia**

J. Clair Callaghan, President

Les Jaeger, Special Assistant to the President

Donald A. Roy, Dean of Engineering

E. Banniassad, Dean of Architecture

William Smith, Special Program Co-ordinator

**Novatron Information Corporation**

Daniel F. Potter, President and Chief Executive Officer

**Nova Scotia Federation of Labour**

J.K. Bell, Secretary-Treasurer

Leo F. Mackay, Executive Secretary

**Voluntary Planning Board**

Allan C. Shaw, Chairman

Lance R. Hale, Executive Director

**Dartmouth Chamber of Commerce**

Robert Adams, President

Robert A. Guildford, Immediate Past President

Peter J. Meltam, Past President

Philip Raymond, Chairman, Burnside Industrial Park Committee

John Ross, Chairman, Civic Affairs Committee

Robert Yorston, Chairman, Retail Committee

Roger Perry, Chairman, Taxation Committee

Peter F. Dorrington, Chairman, Royal Commission Task Force

**Atlantic Provinces Transportation Commission**

E.S. Bailey, Chairman

Craig Dickson, General Manager

Austin S. Durant, Senior Traffic Analyst

**Ecology Action Centre**

Susan Holtz, Senior Researcher

**Nova Scotia New Democratic Party**

Alexa McDonough, MLA, Leader, Nova Scotia NDP

Michael Bradfield, MLA, Resource Critic

*Halifax, Nova Scotia*

*October 12, 1983*

**Theme Panel: Regional Development**

Fred MacKinnon, Director, Senior Citizens' Secretariat

David M. Mann, Chairman, Atlantic Provinces Economic Council; Vice-Chairman, Petro-Canada

David A. Ganong, First Vice-Chairman, Atlantic Provinces Economic Council; President, Ganong Brothers

William Belliveau, Vice-Chairman, Atlantic Provinces Economic Council; President, Info Marketing Limited

Angus A. Bruneau, President, Bruneau Resources Management Limited

Paul LePage, Sub-district Director, Atlantic Region, United Steelworkers of America

**National Anti-Poverty Organization**

Patrick Johnston, Executive Director

Marie Hamilton, President, Halifax-Dartmouth Anti-Poverty Organization

Linda Gregory, President, Alert, Prince Edward Island

**Human Resources Development Association**

Harold D. Crowell, Chairman; Director of Social Planning, City of Halifax

Daniel Hunter, General Manager

**Halifax Board of Trade**

Robert P. Radchuck, President

Ross Haynes, Director

William Moore, Chairman, Economic Development Committee

**Nova Scotia Teachers' Union**

Harold P. Doucette, President

Norman Fergusson, Executive Secretary

W. Ron MacPherson, Executive Assistant

**Maritime Telegraph and Telephone Company Limited**

E.J. Hicks, Vice-President, Finance and Administration

Joseph Morley

*Halifax, Nova Scotia*

*October 13, 1983*

**City of Halifax**

Peter Connell, Director, Engineering and Works; Acting City Manager

Bernard Smith, Director, Finance

**Health Coalition of Nova Scotia**

Ian Johnson, Chairperson

Leo McKay, Vice-Chairperson

Mary Morison, Nova Scotia Women's Action Committee



**Canadian Pensioners Concerned Incorporated**

Doreen Fraser, President

Edith Harvie, Director

**Nova Scotia Nurses' Union**

Lois Hall, President

Thomas Patterson, Executive Director

John Yates, Labour Relations Officer

**Pictou County Research and Development Commission**

B. MacCulloch, Executive Director

**Sandy Cameron**, Leader of the Opposition, Province of Nova Scotia

**Acadian Federation of Nova Scotia**

Gilles LeBlanc, President

Marie-Germaine d'Entremont, Economic Portfolio

Denise Samson, Executive Director

**Marine Workers' Federation of Nova Scotia**

Rick Clarke, President

James Bell, Secretary-Treasurer

**Jim Lotz**, Owner-Manager, Jim Lotz Associates

**Canada Oil and Gas Lands Administration (Nova Scotia)**

Win Potter, Director-General

Maurice Taschereau, Administrator

*Thunder Bay, Ontario*

*October 17, 1983*

**Thunder Bay Economic Development Corporation**

James Johnson, Chairman

Richard Charbonneau, General Manager

**C.A. Benson**, Associate Professor of Forest Management, Lakehead University

**Canadian Pulp and Paper Association**

John Fisher, Chairman and Chief Executive Officer

Charles Carter, Past Chairman of the Board; Chairman and President,

Great Lakes Forest Products

Howard Hart, President

Gordon Minnes, Secretary

David Wilson, Director, Economic and Statistical Services

David Barron, Assistant Manager, Forest Management

**Northern Ontario District Council of Lumber and Sawmill Workers Union**

Tulio Mior, President, Northern Ontario District Council

Fred Miron, President, Lumber and Sawmill Workers Union, Local 2693

Erik J. Hautala, Vice-President, Lumber and Sawmill Workers Union, Local 2693

**Thunder Bay and District Labour Council**

Wayne Doherty, President

Frank Mazur, Vice-President

**Iain Angus**

**Ruth Cunningham**, Director, Women's Program, Confederation College

**Northwestern Ontario Women's Centre**

Fiona Karlstedt, Administrator

Margot Blight

**Non-Organized Workers of Thunder Bay**

Glen Chochla, President

Guy Guinter

**Denis Langelier**, Co-ordinator, Performing Arts Program, Confederation College

**Chamber of Commerce Northwest Inc.**

W.G. Brayshaw, Program Co-ordinator

**Canadian Federation of Humane Societies**

Nancy Erickson, President

**Rita Ubriaco**

**Thunder Bay Multicultural Association**

Frank Obljubek, President

Peter Michailishin, Vice-President

John Potestio, Vice-President

**Joy Fedorick**

**Richard Staples**

*Thunder Bay, Ontario*

*October 18, 1983*

**Thunder Bay and District Council of Clergy**

Reverend Richard Darling, Baptist Church

Reverend Ralph Fluit, Christian Reformed Church

Reverend Bernard Lee, United Church

Bishop John O'Mara, Roman Catholic Church

**Bert Curtis**, President, Confederation College

**Norman Grace**, Development Consultant

**Hawker Siddeley Canada Inc.**

D.T. Nelligan, Director, Finance, Canadian Car Division

**Canadian Forestry Association**

K.A. Armson, President

**Northwestern Ontario Municipal Association**

John Parry, President; Mayor of Sioux Lookout

**Lakehead Social Planning Council**

Don Smith, Executive Director

Prue Morton, Past President

**Women and Economic Development Committee,  
Northwestern Women's Decade Council**  
Liz Poulin, Chairperson, Decade Council  
L. Wall, Economic Development Committee

**Thunder Bay Indian Youth Friendship Society**  
Xavier Michon, Executive Director  
Leslie Nawagesic, Program Director

**Nishnawbe-Aski Nation**  
Frank Beardy, Grand Chief  
Dennis Cromartie, Commissioner

*Windsor, Ontario  
October 17, 1983*

**City of Windsor**  
Elizabeth Kishkon, Mayor of Windsor  
Michael Brode, Executive Assistant

**Subcommittee on Youth Unemployment,  
Mayor's Committee on Services for the Unemployed**  
Carol Libby, Chairperson; Director, Youth Unemployment Counselling, St. Clair  
College

**Windsor Coalition for Development**  
Reverend Robert Warden, Executive Director

**Third World Resource Centre**  
George Crowell

**Wyeth Limited**  
Peter Van Den Eynde, President and General Manager

**University of Windsor, International Business Studies Research Institute**  
Jay Michael Hoffman, Graduate Research Assistant  
Neil Martin Zworth, Graduate Research Assistant

**St. Clair College of Applied Arts and Technology**  
Bruce McAusland, President  
T.V. McCarthy, Executive Director, Educational Planning and Development

**Windsor Women's Incentive Centre**  
Joan Jolin, Executive Director  
Sheelagh Conway, Past Executive Director  
Cathy Rohler, Workshop Co-ordinator  
Eilleen Forshaw, Board of Directors

**Lucy Holman**

**Ontario Business Improvement Area Association**  
David Novick, President

**United Brotherhood of Carpenters and Joiners of America, Local 494**  
Frank Hutnik, Financial Secretary  
Steven Lough, Receiving Secretary

**Community Nursing Registry of Windsor Inc.**

Elsie Sweet Darel, Manager Director

Dolores Wikininish, Social Worker/Liaison

**Sam S. Archer**

*Windsor, Ontario*

*October 18, 1983*

**Mayor's Committee on Services for the Unemployed**

George Macdonald, Chairman

Dan Spinner, Interim Executive Director

**Windsor-Essex County Development Commission**

Clare Winterbottom, Chairman

Bert Weeks, Board of Directors

J. Edwards, Past Chairman

Guy DiPonio, Development Commissioner

**Windsor Chamber of Commerce**

Raymond Fletcher, Vice-President

Art Belanger, Chairman, Taxation Committee

**Windsor and District Labour Council**

Gary L. Parent, President

*Thompson, Manitoba*

*October 19, 1983*

**Thompson Industrial Commission**

Adrian DeGroot, Chairman; Deputy Mayor of Thompson

Blake Maxfield, Vice-Chairman

Al Topham

Douglas Kearn

Kenneth Biberdorf, Director, Thompson Chamber of Commerce

**Norman Regional Development Incorporated**

Walter Perepeluk, President; Mayor of Lynn Lake

Charles S.M. Mortimer, General Manager

**United Steelworkers of America, Local 6166**

Morgan Svendsen, President

Buster Gurney, Vice-President

**Inco Limited**

Walter Curlook, Executive Vice-President

William P. Clement, President, Manitoba Division

Dennis Nagata, Corporate Media Relations

**Mennonite Central Committee of Canada**

Menno Wiebe, Director, Native Concerns

Reverend V. Redecop, United Mennonite Church



**District of Lynn Lake**

Walter Perepeluk, Mayor of Lynn Lake

**Manitoba Keewatinowi Okimakanak Incorporated**

Philip Michel, Chief, Barren Lands Band

**Northern Flood Committee**

J.I. Keeper, Executive Director

**Thompson Chamber of Commerce**

Harvey R. Hanson, President

D. Turpie, Director

Kenneth Biberdorf, Past President, Director

**United Way of Thompson**

Douglas McEwen, President

Charles S.M. Mortimer, Secretary

Kenneth Biberdorf, Director, Thompson Chamber of Commerce

**Thompson Crisis Centre Incorporated**

Eunadie Johnson, Executive Director

**Native Communications Incorporated**

Ron Nadeau

**Alexander Murchie and Lorne Lamontagne****Bryan Clements****Federal Riding of Churchill**

Timothy Drew

*Sudbury, Ontario*

*October 19, 1983*

**Sudbury 2001**

Narasim Katary

**L.E. Seeley****Inco Limited**

Charles F. Baird, Chairman and Chief Executive Officer

Winton Newman, President, Ontario Division

**Canadian School Trustees' Association**

Ernie Checkeris, President

**Infonorth Computing Incorporated**

Richard Danielson, President

Karen Danielson, General Manager

W. Skinner, Director

**Max L. Swanson**

**Federal Association of the Sudbury New Democratic Party**

Rosemary Blenkinsop

Philip Brown

**Northeastern Ontario Energy Conservation Association**

Mike Zudel, Director

S. Hunniset

**William Bradley**

**Ken Noble**

**Regional Municipality of Sudbury**

Tom Davies, Chairman

Peter Wong, Mayor of Sudbury; Chairman, Economic Development Committee

Herbert Akehurst, Chief Administrative Officer

Robert Bateman, Chairman, Sudbury and District Chamber of Commerce

Ron MacDonald, President, Local 6500, United Steelworkers of America

**James Bay Tribal Council**

Paul Martin, Manager and Director, Nishnawbe-Aski Resource Development Project

**Attawapiskat Band Council**

John B. Nakogee, Chief

Reg Loutit

*Sudbury, Ontario*

*October 20, 1983*

**Falconbridge Limited**

William James, Chairman, President and Chief Executive Officer

Gordon Slade, Vice-President, Canadian Nickel and Copper Operations

**Douglas Goldsack**, Dean of Science and Engineering, Laurentian University

**James Grassby**, Lecturer, Financial Planning, Cambrian College

**United Steelworkers of America, Local 6500**

Ron MacDonald, President

Dan Swezey, Chairman, Safety and Health Committee

Keith Lovely, Local Union Officer

Gary Ransom

Alan Lamirande

**Enid Barnett**, Economics Department, Laurentian University

*Quebec, Quebec*

*October 24, 1983*

**Conseil régional de développement de la région administrative de Québec**

François Hubert, Professor of Geography, Laval University

Gilbert Hamel, Executive Director

**Habitation populaire de Québec inc.**

Jean-Charles Paradis, President

Gaston Rhainds, Executive Director

Louis-Marie Asselin, Mathematician and Statistician

Jean Fréchette, Consultant, Co-operative and Community Development

**Office de la pastorale sociale du diocèse de Québec**

François Thibodeau, Director

Yvan Tremblay, Associate Director

Annine Parent-Fortin

Camille Albert

**Sommet Québécois de la jeunesse**

Pierre Noreau, President

Sylvain Fortier, Treasurer

Johanne Fortin, Board of Directors

**Gaz Inter-Cité Québec**

Gilles Barbeau, President

Guy Bertrand

**Conseil de la coopération du Québec inc.**

Paul Dolan, President

Jean-Eudes Bergeron, Vice-President

Louis-Georges Gervais, Executive Director

Paul-Émile St-Pierre

*Quebec, Quebec*

*October 25, 1983*

**Theme Panel: Adjustment and Uncertainty**

Paul Labbé, President, Office canadien pour un renouveau industriel

Jean-Paul Hétu, President, Centrale des syndicats démocratiques

Ernest Drew, President and Chief Executive Officer, Celanese Canada

Charles Perrault, President, Perconsult Limited

**L'Association des mines de métaux du Québec**

Michel Lefebvre, President

Réjean Labonté, Director

**Métallurgie Frontenac Limitée**

Denis Rousseau, President

Réjean Labonté, Director

**Centre Étape Inc.**

Noëlla Porter, Executive Director

Roseline Sévigny, Recreation, Tourism and Communications Consultant

**André C. Sarasin**

**Barbara Tessier**

**Association des Femmes Collaboratrices**

Marie-Reine Laberge, President

Denise Blanchette, Co-ordinator

Jeannine Robichaud, Researcher

*Quebec, Quebec*  
*October 26, 1983*

**Société inter-port de Québec**

Jacques Bourassa, President  
Gérald Brassard, Executive Director  
Gilles Drolet, Director, Administration  
Jean-Pierre Bordua, Director, Marketing  
Bernard Dupont, Director, Operations

**Corporation des artisans de Québec**

Pierre Bélanger, President  
Jean-Pierre Tremblay, Executive Director

**Chambre de commerce et d'industrie du Québec métropolitain**

Yvon Dolbec, President  
Gérald St-Pierre, Director  
Pierre Talbot, Executive Director and Vice-President  
Jean-Luc Dutil, Vice-President  
Michel Létourneau  
Robert Girard

**Association des propriétaires de Québec**

Marcel Tremblay, President  
Lucien Gauvin, Press Secretary

**Groupe d'action pour l'avenir technologique et industriel de la région de Québec**

Jean-Guy Paquet, Chancellor, Laval University  
André Lemay, Executive Director  
Yves Giroux, Deputy Vice-Chancellor, Laval University

**Yvon Valcin and Laurence Valcin**

**Confédération des syndicats nationaux**

Sylvio Gagnon, Executive Secretary  
Clément Bélanger, President, Société Asbestos Limitée  
Peter Baknis

**Réseau d'action et d'information pour les femmes**

Marcelle Dolment, Co-ordinator  
Cécile Ugueux  
Monique Beaulieu  
Claudette Beaulieu

*Chicoutimi, Quebec*  
*October 27, 1983*

**Société d'expansion économique du Saguenay inc.**

Ulric Blackburn, President; Mayor of Chicoutimi  
Clément Vaillancourt, Executive Director

**Société de recherche sur la faillite Sagamie**

Claude Lalonde, President  
Carol Boudreault, Vice-President  
Michel Lechasseur, Vice-President



**Société de développement de Jonquière inc.**

Francis Dufour, Mayor of Jonquière

**Conseil régional de développement Saguenay-Lac-Saint-Jean-Chibougamau inc.**

J. Fernand Tremblay, President

Jacques Desbiens, Consultant

Mariette Martel, Vice-President, Economic Affairs

Louis-Gaétan Fortin, Executive Director

Gérard Claveau, Executive Vice-President

**Fédération des syndicats du secteur inc. aluminium**

Lévis Desgagné, President

Jean-Marc Dubois, Secretary

Antoine Potvin, Technical Adviser

Jacques Hubert, Union Representative

Gilles Harvey, Union Representative

**Municipality of Shipshaw**

Jean-Claude Lavoie, Mayor of Shipshaw

**Fédération de l'Union des producteurs agricoles du Saguenay-Lac-Saint-Jean**

Germain Simard, President

Bertrand Tremblay, President, Chaîne coopérative du Saguenay

Hubert Doré, President, Nutrinor

Jean-Paul Poirier, Associate Secretary, Syndicat des travailleurs forestiers

Jean-Marie Couët, Secretary

**Confédération des syndicats nationaux**

Pierre Mercille, Vice-President

Serge Lemelin, President, conseil central Saguenay-Lac-Saint-Jean

Claude Rioux, Economist, Research Service of the CSN

**Chicoutimi Chamber of Commerce**

François Tremblay, President

Guy Mineault, Director

**Fédération des caisses populaires Desjardins du Saguenay-Lac-Saint-Jean**

Jean-Claude Hudon, President

Jean-Eudes Bergeron, Executive Director

François Gilbert, Administrator

Joseph Fleury, Executive Secretary

**Conseil économique d'Alma et du Lac-Saint-Jean inc.**

Rénald Martin

**Lionel Pelletier**

**Guy Mineault**

**Fédération de l'Union des producteurs agricoles de la Beauce**

Gérard Lehoux, President

Clément Nadeau, President, Syndicat des aëriculteurs de la Beauce

Roch Poulin, Secretary, Syndicat des producteurs en serres de la région 03

Pierre Giguère, Development Technician

Lucien Gagné, Information Technician

**Comact Inc.**

Robert Gilbert, Associate Director

*Saint-Georges-de-Beauce, Quebec*  
*October 27, 1983*

**Conseil économique de Beauce**

Jean-Denis Poulin, President  
Serge Roy, Executive Director

**Hervé Pomerleau**, President, Hervé Pomerleau Inc.

**Fabien Roy**

**Confédération des syndicats nationaux (Saint-Georges-de-Beauce)**

Gérald Larose, President  
Normand Piché, President, Conseil central de Québec

**Centre-femmes de Beauce**

Lise Paquet, Co-ordinator

**Paul-André Busque**

**Conseil régional de la Pastorale La Chaudière**

Sylvain Chartier, Recording Secretary

**Procycle Inc.**

Raymond Dutil, Vice-President, Executive Director

**Agrinove, Co-opérative agro-alimentaire**

Rosaire Lapierre, President  
Jean-Louis Lavoie, Executive Secretary  
Jacques Légaré, Treasurer

*Montreal, Quebec*  
*October 31, 1983*

**Communauté urbaine de Montréal**

Pierre Des Marais II, President  
Daniel Wermenlinger, Executive Director  
Stephen A. Bigsby, Director, Economic Expansion  
Guy Gravel, Director, Planning Service

**Montreal Economic Development Commission**

Pierre Goyette, President, Montreal Chamber of Commerce  
James Cadieux, Chairman, Economic Policy and Information Committee,  
Montreal Board of Trade  
André Vallerand, Executive Vice-President; Executive Director,  
Montreal Chamber of Commerce  
Gordon J. Fehr, President, Montreal Board of Trade  
Alex Harper, Executive Director, Montreal Board of Trade

**Union des municipalités du Québec**

Jean Corbeil, Vice-President; Mayor of Anjou  
Jean Bélanger, Director, Research

**Pétromont Inc.**

Barry P. Welford, Vice-President, Marketing and Commercial Expansion  
Serge Guérin, Vice-President, Administration and Human Resources

Jean-Yves Gravel, Planning Officer

**Dorval Brunelle**, Professor of Sociology, Université du Québec à Montréal

**Pierre Dansereau**, Professor Emeritus, Université du Québec à Montréal

**Canadian Textiles Institute**

Eric Barry, President

J. White, Chairman

Frank Brady, Co-Chairman, Advisory Panel on Textiles and Clothing

Ray Chevrier, Chairman, Trade Policy Committee

Jim Robertson, Vice-President, Human Resources

**Dominion Textile Inc.**

Thomas R. Bell, President and Chief Executive Officer

Alex R. McAslan, Executive Vice-President, Operations

Charles A. McCrae, Executive Vice-President, Administration and Resources

Francis P. Brady, Senior Vice-President

Paul E. Boudreault, President, Sales Yarn Company

**Shoe Manufacturers' Association of Canada**

Jean-Guy Maheu, President

**Centrale des syndicats démocratiques**

Jean-Paul Hétu, President

Pierre-Yvon Ouellet, Research Centre

**Confédération des syndicats nationaux**

Gérald Larose, President

Sylvio Gagnon, Executive Secretary

Pierre Mercille, Vice-President

Monique Simard, Vice-President

Peter Bakvis, Researcher

Claude Rioux, Researcher

*Montreal, Quebec*

*November 1, 1983*

**Theme Panel: The Role of Government**

Raymond Garneau, Chairman and Chief Executive Officer, Montreal City and District Savings Bank and Crédit Foncier

Louis Laberge, President, Fédération des travailleurs du Québec

Fernand Daoust, Executive Secretary, Fédération des travailleurs du Québec

Wendy Dobson, Executive Director, C.D. Howe Institute

Richard Lipsey, Research Consultant, C.D. Howe Institute

Jean-Maurice LeClair, President and Chief Executive Officer,  
Canadian National Railways

Linton R. Wilson, President and Chief Executive Officer, Redpath Industries

**Seafarers' International Union**

Andrew C. Boyle, Executive Vice-President

Paul Martin Jr., President and Chief Executive Officer, Canada Steamship Lines Inc.

**Bell Canada**

James C. Thackray, Chairman

Dale Orr, Chief Economist

**Ordre des comptables agréés du Québec**

Robert Gobeil, President

Guy d'Orsonnens, Treasurer

André Desrochers, Director, Administration

André Dupras, Director, Communications

**Fédération de l'âge d'or du Québec**

Maurice Fortin, Administrator, Conseil régional du Québec

Charles Douville, Resource Person, Conseil des Aînés

Simone Daigneault, Secretary, Conseil régional

Rita Cambron, Research Officer

**Women's Information and Referral Centre of Montreal**

Maureen Lofthouse, Vice-President

Sandy Mielitz, Treasurer

Mona Forrest, Director

**United Way of Montreal**

Jean Lessard, President, Executive Director

Michel Giroux, Special Assistant to the Executive Director

**Quebec Chamber of Commerce**

Charles Langlois, President

Arthur Earle, First Vice-President

François Paradis, Vice-President, Economic Affairs

Jean-Paul Létourneau, Executive Vice-President

Marcel Tardif, General Manager, Public Affairs

Pierre Lemieux, Economic Advisor

*Montreal, Quebec*

*November 2, 1983*

**Makivik Corporation**

Mary Simon, President

Robbie Tookalook, Mayor of Great Whale River, Kuujjuarapik

Lazarusie Epoo, Mayor of Inukjuak

Charlie Arngak, Mayor of Kangirsuuaq, Welcome Bay

Adamie Tumassi, Major of Kangirsuk, Payne Bay

Kitty Annanack, Mayor of Kangisualujjuag, George River

Tikkili Kleist, representing the Mayor of Kujjuuaq

Willie Angnatuk, representing the Mayor of Tasiuuaq

Josepe Agma, representing the Mayor of Aupaluk

Maggie Tukkiapik, representing the Mayor of Quaqtaq

Matthewsie Luuku, representing the Mayor of Ivujivik

Peter Matte, representing the Mayor of Akulivik

**Laurentian Group**

Claude Castonguay, President and Chief Executive Officer

Jean-Marie Poitras, Chairman

Jacques A. Drouin, Executive Vice-President

**La Confédération des caisses populaires et d'économie Desjardins du Québec**

Raymond Blais, President

Yvon Daneau, Assistant to the President and Executive Secretary

Yves Morency, Economist

Hervé Hébert, Director



François Richard, Director  
René Croteau, Assistant to the President

**Conseil du patronat du Québec**

Sébastien Allard, President  
Ghislain Dufour, Executive Vice-President  
Denis Beauregard, Research Director  
Jean-Claude Murray, Director  
Raymond Larocque, Director

**Ex-Commission d'étude sur la formation professionnelle  
et socio-culturelle des adultes**

Michèle Jean, President  
Michel Blondin, Responsible for Education, Metal Workers' Union  
Claude Desmarais, Director, Adult Education Services,  
Chambly Regional School Board

**Action travail des femmes du Québec**

Dominique Leclercq  
Simone Bernier

**Diplômés de l'Université de Montréal**

Jean-Pierre Roy, President  
Jean-Claude Lauzon, Vice-President  
Yves Desjardins-Siciliano, Vice-President

**McGill University**

David L. Johnston, Principal and Vice-Chancellor  
Stanley Frost, Director, History of McGill Project

**Union des producteurs agricoles**

Jacques Proulx, Chairman  
François Côté, Director, Studies and Research Service

**STOP inc.**

Charles Mallory, President  
Roger de Ladurantaye  
Derek Morton, Editor, STOP Press

**Stuart Hill**, Associate Professor of Entomology and Ecological Agriculture Projects,  
McGill University

**Association féminine d'éducation et d'action sociale**

Louise Joly, Vice-President  
Lise Houle, Public Relations Officer

**Ian B. Williamson**

*Montreal, Quebec  
November 3, 1983*

**Canadian Chamber of Commerce**

Samuel F. Hughes, President  
Robert Paquin, Past Vice-Chairman, Association of Canadian Advertisers  
Incorporated  
Anna L. Guthrie, Chairman, Economic Policy Committee

Bruce R. McPherson, President, Canadian Council of Furniture Manufacturers  
Frank C. Ferguson, President, Canadian Direct Marketing Association  
Stanley G. Wild, President, Canadian Electrical Distributors Association  
Normand St-Jean, President, Canadian Hardware and  
Housewares Manufacturers' Association  
David E.P. Armour, President, Electrical and Electronic Manufacturers' Association  
of Canada  
George A. Peapples, Motor Vehicle Manufacturers' Association  
Bill Pattison, Chairman, Tourism Industry Association of Canada  
Peter Huffman, Vice-President, Administration, Winnipeg Commodity Exchange

**The Honourable Francis Fox, Minister of Communications**

**Consolidated Bathurst Inc.**

William I.M. Turner Jr., Chairman and Chief Executive Officer  
A.K. Narang, Senior Vice-President, Planning and Administrative Services  
T.J. Wagg, Vice-President, Finance

**Formula Growth Limited**

John W. Dobson, President  
Ian Soutar, Vice-President

**Bombardier Inc.**

Laurent Beaudoin, Chairman and Chief Executive Officer  
Raymond Royer, President, Public Transport Division  
Yvon Turcot, Public Affairs Consultant

**Fédération des femmes du Québec**

Denyse Bélanger-Rochon, President  
Marie-Françoise Marchis-Mouren, Vice-President, Finance  
Ginette Busque, Vice-President, Statutes and Regulations  
Ruth Rose Lizée

**Ultramar Canada Inc.**

William J. Berry, Manager, Government Affairs  
Graham Cooper, Government Liaison  
François Marcil, Manager, Commercial Marketing

**Ordre des ingénieurs du Québec**

Pierre Bournival, President  
R. Rémi Arseneault, Service Manager, Planning and Development,  
Gaz Métropolitain inc.  
Roger Blais, Director, Centre d'innovation industrielle,  
École polytechnique de Montréal  
John H. Dinsmore, Chairman and Chief Executive Officer, Pétromont inc.  
Roland Doré, Director, École Polytechnique de Montréal  
Alice Savage, Equipment Planning, Hydro-Québec  
Claude Comtois, President, Lalonde, Girouard, Letendre et Associés  
Gilles Perron, Secretary

**United Steelworkers of America**

Clément Godbout, Director, District 5  
Émile Vallée, Research Assistant  
Raymond Sliger, Area Supervisor  
Vince Chapin

*Calgary, Alberta*  
*November 7, 1983*

**City of Calgary**

Ralph Klein, Mayor of Calgary

**Canadian Petroleum Association/Independent Petroleum Association of Canada**

Edward W. Best, Chairman, Canadian Petroleum Association; President, B.P.

Exploration Canada Limited

J.R. Dundas, President, Independent Petroleum Association of Canada; President and  
Chief Executive Officer, Roxy Petroleum Limited

John D. Porter, Managing Director, Independent Petroleum Association of Canada

William A. Elser, Executive Vice-President, Atcor Resources Limited

R.H. Carlyle, Senior Vice-President, Gulf Canada Resources Inc.

Hans Maciej, Technical Director, Canadian Petroleum Association

**J.P. Gallagher**, Chairman and Chief Executive Officer, Dome Canada Limited

**Gordon F. Dixon**

**Ralph R. Capeling**, Manager, Oil Sands, B.P. Exploration Canada Limited

**Calgary Research and Development Authority**

William D. Croft, President

**Dome Petroleum Limited**

John M. Beddome, President and Chief Operating Officer

Donald R. Gilley, Vice-President, Corporate Planning

**TransAlta Utilities Corporation**

M.M. Williams, President and Chief Executive Officer

H.G. Schaefer, Senior Vice-President, Financial and Corporate Planning

**Brian Thompson**

**Carol Stein**

*Calgary, Alberta*  
*November 8, 1983*

**Social Issues Committee, Young Women's Christian Association, Calgary**

Elizabeth J. Galatiuk, Chairperson

Patricia J. Cooper, President, Calgary Association of Voluntary Agencies

Paula MacLeod, YWCA Social Issues Committee

**Canadian Association of Social Workers**

Glenn Drover, President

Gayle Gilchrist James, Past President

Richard Ramsay, Secretary

**Calgary Association of Voluntary Agencies**

Don Karst, Executive Director, Calgary Family Service Bureau

Lillian Tyler, Past President, Immigrant Aid Society

Maureen Crane, Chief Executive Officer, Calgary YWCA

**University of Calgary Faculty Association**

John Woods, Vice-President

R.G. Weyant, Dean, General Studies

Michael A. Ward, Chairman, Civil Engineering Department

**Canada West Foundation**

David K. Elton, President

R.A.D. Beck, Economic Consultant

Arthur J.E. Child, President, Burns Foods Limited

A.W. Howard, Chairman, TransAlta Utilities Corporation

Michael Mears, Vice-President, Mancal Limited

**Alberta Wheat Pool**

Allan J. Macpherson, President

Allan W. Beattie, Director, Public Relations

Bruno A. Friesen, Manager, Member Services

**Western Stock Growers' Association**

Ian Watt, President

Pat Rutledge, Second Vice-President

*Calgary, Alberta*

*November 9, 1983*

**British Columbia Resources Investment Corporation**

Walter J. Riva, Director

William S. Cameron, Vice-President, Corporate Planning

**Canadian Hunter Exploration Limited**

James K. Gray, Executive Vice-President

**John Dyer**, Assistant Superintendent, South West Area, Calgary Board of Education

**Westmills Carpets Limited**

J. William Ford, President and Chief Executive Officer

**Chambers of Commerce**

Donald Stanley, President, Alberta Chamber of Commerce

Donald Cross, President, Calgary Chamber of Commerce

Edward George, President, Edmonton Chamber of Commerce

Fred A. Stewart, Chairman, Government and Economic Affairs Committee, Calgary Chamber of Commerce

Douglas McArthur, Vice-Chairman, Government and Economic Affairs Committee, Calgary Chamber of Commerce

**James S. Palmer and Murray Edwards****Calgary Council for Advanced Technology**

Bruce G. Hartwick, Chairman; Vice-President, NOVA Corporation

Roy Lindseth, President, Teknica Resource Development Limited

Keith E. Cooper, Vice-President, Research, University of Calgary

Steven Slipp, Partner, Clarkson Gordon

Conrad Kockerbeck, President, Global Office Automation Systems Limited

**Action Studies Institute**

Ken Low, President



**Louis Hamill**, Associate Professor of Geography, University of Calgary

**Ernie Ashton**

**Dianne E. Jorgenson**

**Carol John Sebella**

*Lethbridge, Alberta  
November 10, 1983*

**City of Lethbridge**

Edward Martin, Alderman

Dennis S. O'Connell, Director, Economic Development

**University of Lethbridge**

John Woods, President and Vice-Chancellor

**Lethbridge Research Station**

D. Gordon Dorrell, Director

D.B. Wilson, Acting Assistant Director

Donald C. Mackay, Head, Soil Science Section

Ernest E. Swierstra, Head, Animal Science Section

**Lethbridge Interagency Committee**

Robert Richards, Executive Director, Southern Alberta

Community Living Association

Mary C. Walker, Chief Operating Officer, Young Women's Christian Association of  
Lethbridge and District

Lorita Ichikawa, Executive Director, Lethbridge Family Services

**Canadian Cattlemen's Association**

Gary Jones, President

Stan Wilson, Second Vice-President

Brian Heidecker, Ex-officio

Charles Gracey, Executive Vice-President

**Canadian Meat Council**

David Adams, General Manager

A. Tolton, Director, Field Services, Western Canada

**Confederation of Alberta Faculty Associations**

Al Hunter, President

Michael Kubara, Professor of Philosophy, University of Lethbridge

Luke Stebbins, President, University of Lethbridge Faculty Association

**St. Patrick's Social Justice Committee**

Thomas L. Cain, Chairman

Sister Pat MacDonald, Social Justice Committee

Bosco Baptista, Social Justice Committee

Sister Ann McClelland, Social Worker, St. Michael's Hospital

**Lethbridge Chamber of Commerce**

David Irving, Chairman

George Lermer, Chairman, Governmental Affairs Committee

**Bert Hargrave, MP**

*Edmonton, Alberta*  
*November 14, 1983*

**City of Edmonton**

Laurence Decore, Mayor of Edmonton

**Canadian Institute of Planners**

K.B. Clark, President

**J. Martin Hattersley**

**Consulting Engineers of Alberta**

R. W. Bowes, Vice-President

Harold V. Page, Managing Director

**Principal Group**

Donald M. Cormie, President, Chairman and Chief Executive Officer

**Smith International Canada Limited**

Denis G. Gaulin, Host Division Manager

Lawrence P. Howorth, Controller and Chief Financial Officer

**Association canadienne-française de l'Alberta**

Guy Goyette, President

Roger Lalonde, Past President

**Lakeland College**

Roy V. Murray, President

**Athabaska University**

Ross H. Paul, Vice-President, Learning Services

**Father Russell Pendergast and Reverend Edward M. Checkland**

**Catholic Social Services**

Father William Irwin, President and Chief Executive Officer

Andrew Michalski, Vice-President, Family Services

Paul Nahirney, Consultant, Planning and Development

**Andriy J. Semotiuk**

**Alberta Committee of Consumer Groups of Disabled Persons**

Nancie Krushelnicki, Executive Director

Len Seaby

**Native Canadian Petroleum Association and Canada Geothermal Oil Limited**

R.E. Wolf

**MIDAS Reform Organization of Alberta**

A.J. Hooke

**Western Energy Investments Limited**

L.D. McIlroy, President

**Gordon King**

**David M. Cawkell**

*Edmonton, Alberta*  
*November 15, 1983*

**Theme Panel: Technology, Productivity and Work**

Stephen G. Peitchinis, Professor of Economics, University of Calgary  
C.W. Bowman, Chairman, Alberta Oil Sands Technology and Research Authority  
Fred W. Pomeroy, President, Communications Workers of Canada  
William Dyson, William Dyson Associates  
Walter F. Light, Chairman and Chief Executive Officer, Northern Telecom Limited

**Fraser Institute**

Michael A. Walker, Director

**Inter-Church Ad Hoc Committee of Edmonton**

Sheranne Johnson, Social Justice Commission, Roman Catholic Church  
Reverend Martin Garber Conrad, Lutheran Church of America  
Reverend Roy Darcus, Church in Society Committee, Anglican Church  
Betty Marlin, Conference Staff, Social Action Ministry, United Church  
Reverend David Summers, Church in Society, United Church  
Desmond Berghoffer, Anglican Church

**Alberta New Democratic Party**

Grant Notley, Leader of the Official Opposition  
Davis Swan, Energy Critic  
Jim Russell, Chairman, Economic Development Committee

*Edmonton, Alberta*  
*November 16, 1983*

**Economic Development Advocacy Committee, County of Strathcona No. 20**

Robert A. McAlpine, Chairman  
I. F. Markson, Chief Commissioner  
G.W. Lavold, Economic Advisor  
Warren Thomas, Reeve

**Confederation of Regions Party of Alberta**

Elmer Knutson, Leader of the Party  
Alma E. Hancock, Chairperson, Monetary Advisory Committee  
Shirley Bassani, Executive Director  
Nora Galenzoski, Financial and Monetary Committee

**Reginald D. Loomis, Stuart R. Loomis and William G. Brese**

**R.B. Church**, Associate Dean of Medicine, University of Calgary

**Association of Deans of Pharmacy of Canada**

John A. Bachynsky, President

**Alberta Teachers' Association**

Norval Horner, District Representative  
N.P. Hrynyk, Associate Executive Secretary

**H. Peter Oberlander**, Director, Centre for Human Settlements,  
University of British Columbia

**Woodbridge, Reed and Associates Limited**  
Peter Woodbridge, President  
Richard Dempster, Manager, Alberta Office

**Atco Limited**  
Ronald D. Southern, President

**George Shaw MacMillan**, President, George Shaw MacMillan and  
Associates Limited and **Edward James Thompson**, Project Manager,  
PCL-Braun-Simons Limited

*Saskatoon, Saskatchewan*  
*November 21, 1983*

**Saskatchewan Urban Municipalities Association**  
H.E. Taylor, President; Alderman  
M.K. Clary, Vice-President, Towns  
G.A. Bristow, Vice-President, Villages  
R.A. Wankling, Executive Director

**Saskatoon Board of Trade**  
James T. Lyon, Chairman, Policy Committee  
Phil Walker, President-Elect  
Bert Salloum, Secretary-Manager

**Saskatchewan Mining Association**  
Ralph Cheesman, Manager  
Ken Haapanen, Chairman, Uranium Section; Vice-President, Mining,  
Eldorado Nuclear  
Jim Bonny, Vice-President, Marketing  
M. Henningson, General Manager, Operations, Cominco Potash

**Saskatchewan Environmental Society**  
Ann Coxworth, President  
Bertram Weichel

**MBA Students, University of Saskatchewan, College of Graduate Studies**  
Edmond Price, Professor of Commerce, University of Saskatchewan  
John David Spriggs, Associate Professor of Agricultural Economics,  
University of Saskatchewan  
Neil Larsen  
Rick Horocholyn  
Noreen Hetherington  
Greg Posehn  
Wes Mills  
Justin Li  
Larry Saloff  
Anisar Rahman

**Saskatchewan Teachers' Federation**  
Frank Garritty, President; Vice-President, Canadian Teachers' Federation  
Mel Lofstrom, General Secretary  
Gary Genge, Assistant General Secretary  
Fred Herron, Executive Assistant

**Lloyd Kristjanson**, President, University of Saskatchewan



**George Khachatourians**, Professor, University of Saskatchewan

**Association of Professional Engineers of Saskatchewan**

Oscar W. Hanson, President

William A. Bullee, Vice-President

William H. Eatock, Past President

**Federated Co-operatives Limited**

Vernon Leland, President

Dennis Thomas, Manager, Public Relations Division

**Co-operative Trust Company of Canada**

Ed Gerbert, Chief Executive Officer

John Wall, Vice-President, Corporate Services

**John Benesh**

**Federation of Saskatchewan Indian Nations**

Sol Sanderson, Chief, Federation of Saskatchewan Indian Nations

J.P. Woods, Director, Corporate Development, SINCO Developments Limited

Andrew Michael, Chief

**Saskatoon Union of Unemployed Workers**

Brian Krempien, President

Stuart Goldie, Vice-President

Mike Dunn

*Saskatoon, Saskatchewan*

*November 22, 1983*

**Theme Panel: Resource Management**

Graham Walker, Deputy Chairman, Pemberton, Houston, Willoughby

Michael Percy, Associate Professor of Economics, University of Alberta

A. Paus-Jenssen, Professor of Economics and Political Science,

University of Saskatchewan

M. Norman Anderson, Chairman and Chief Executive Officer, Cominco Limited

**The Canadian Baha'i Community**

Douglas Martin, Secretary

Ed Muttart, Treasurer and Assistant Secretary

Huguette Matte-Vaillancourt, Co-ordinator of National Education and Information

Allison Healy, Committee for the Development of Baha'i Spiritual Assemblies

Husayn Banani, National Spiritual Assembly of the Baha'is of Canada

**United Church of Canada - Working Unit on Social Issues and Justice**

Reverend Robert G. Lindsey, Senior Staff Officer, Church in Society Committee

Mervin Harrison, Chairperson, Working Unit on Social Issues and Justice

John Jacquemain, National Officer for French-English Relations

**Canadian Day Care Advocacy Association**

Judith Martin, Chairperson

Larry Stewart

**Saskatchewan Working Women**

Susan Gilmer, Provincial President

Lorraine Moulding, Saskatoon Co-ordinator

Christine Smillie, Provincial Treasurer

**Canadian Airline Employees Association**

Tom Saunders, President

Jane Armstrong, Research Analyst

*Regina, Saskatchewan*

*November 23, 1983*

**Saskatchewan Federation of Agriculture**

Robert McGillivray, President

Garf Stevenson, Vice-President

Linda Boxall, Executive Member

Clarence Hookenson, Director

Gary Carlson, Executive Secretary

**Canadian Co-operative Wheat Producers Limited**

E. Ted Turner, Chairman

Greg S. Arason, Corporate Secretary

Ron Weik, Manager, Research

**Family Farm Foundation of Canada**

Gordon MacMurchy, President

Harry-Jae Elder

Donette Elder

Hartley Furtan, Head, Department of Agricultural Economics,  
University of Saskatchewan

Ken Jenson

Brian Kramer

Eric Kramer

**National Farmers Union**

Wayne Easter, President

Stuart A. Thiesson, Executive Secretary

**Credit Union Central of Saskatchewan**

Leslie R. Tendler, President; General Manager, Sherwood Credit Union

Norman A. Bromberger, Chief Executive Officer

Keith Sproule, First Vice-President

Robert Cowan, Executive Committee

Terry MacDonald, Manager, Research

**Canadian Organic Producers Marketing Co-operative Limited**

Alfred Moore, President

Allan Dietrich, Vice-President

Doreen Reitenbach, Treasurer

Elmer Laird, Director

Ray Demong, Director

**Prairie Implement Manufacturers Association**

Donald Ego, Chairman

W.C. "Bill" Spiers, President

Hubert Lux, First Vice-President

Ken McKenzie, Second Vice-President

Ivan Thue, General Manager

**Western Transportation Advisory Council**

Martin Crilly, President

The Honourable J.W. "Jim" Garner, Chairman; Minister of Highways and Transportation, Government of Saskatchewan

Douglas Fletcher, Vice-President, Prairie Region, CN Rail

Don Garcia, Director; President, Canadian Area, International Longshoremen's and Warehousemen's Union

Colonel Robert Houston, Honorary Director

**Government of Saskatchewan**

The Honourable Robert Andrew, Minister of Finance

The Honourable Eric Berntson, Deputy Premier; Minister of Economic Development and Trade

*Regina, Saskatchewan*

*November 24, 1983*

**The Honourable Allan Blakeney**, Leader of the Opposition,  
Saskatchewan New Democratic Party

**Saskatchewan Council for International Co-operation**

Bryan Tudor, President

Jack Risk, Secretary

William Harding, former Board Member

Christine Meissner, South Saskatchewan Committee for World Development

Mardele Harland, Executive Secretary

**Robyn Allan**

**The Honourable Eugene F. Whelan**, Minister of Agriculture

**Saskatchewan Chamber of Commerce**

Marcel de la Gorgendière, President

Robert Finlay, Executive Director

**Saskatchewan Federation of Labour**

Nadine Hunt, President

Barbara Makeechak, Executive Assistant

**Unemployment Committee of Regina**

Catherine McCann, Chairperson

Myrna Nerbas, Treasurer

**Canadian Nurses' Association**

Helen Preston Glass, President

Ginette Rodger, Executive Director

**United Mine Workers of America, District 18**

Mike Tamtom, President

William Stuart, Secretary-Treasurer

Lynn Abraham, Sub-District Board Member

**Prospectors and Developers' Association of Canada**

H. Douglas Hume, President

Edward Shiller, Director, Public Affairs, Falconbridge Limited

**Saskatchewan Action Committee on the Status of Women**

Palma Anderson, President

Arlene Franko, Co-ordinator

**University of Regina**

Donald Shaw, Vice-President

Cam Blachford, Dean of Graduate Studies and Research

David Bamford, Director, Budgets

Judy Alexander, Head, Department of Economics, University of Regina

**Thomas Kierans**

*Winnipeg, Manitoba*

*November 28, 1983*

**Manitoba Association of Urban Municipalities**

Jae Eadie, Vice-President; Councillor, City of Winnipeg

Rochelle I. Zimberg, Executive Director

**Winnipeg Chamber of Commerce**

James Wright, President

Charles M. Winograd, Member

William Draper, General Manager

**The Honourable Lloyd Axworthy, Minister of Transport**

**Canadian Real Estate Association**

Allan Poapst, Past President

Pierre Beauchamp, Executive Vice-President

Mack Parliament, Director, Research and Publications

David Humphreys, Ottawa Representative

**Manitoba Advisory Council on the Status of Women**

Roberta Ellis, Chairperson

Ruth Vogt, Council Member

Pauline Russell, Council Member

Lilian McIlwain, Council Member

**Catholic Women's League of Canada**

Bernadette Russell, Chairperson, Ad Hoc Committee on the Economy

Mary Bennett, Provincial Community Life Convener

Stella Carson, Provincial Resolutions Convener

Shirley Scaletta, Ad Hoc Committee on the Economy

Evelyn Wryzykowski, Ad Hoc Committee on the Economy

**Manitoba Anti-Poverty Organization Inc.**

Lori Bell, Vice-President

Olga Foltz, Executive Director

Tim Herkert, Advocacy Worker

Laura Steiman, Secretary

Willy Carleton

**Conseil jeunesse provincial inc.**

Michel Roy, President

Robert Mousseau

André Dufresne



**Canadian Agricultural Chemicals Association**

J.S. King, Chairman; President, Chipman Inc.

J.D. Nattress, Vice-Chairman; Vice-President, Monsanto Canada Inc.

John Oliver, Treasurer; Vice-President, Eli Lilly Canada Inc.

I.D. Raynor, Chairman, Government Relations, Manitoba Council,  
Canadian Agricultural Chemicals Association

**Social Planning Council of Winnipeg**

Lenore Good, President

Isabel Auld, Vice-Chairman, Social Policy Formation Committee

Robert Fenton, Associate Professor of Economics, University of Winnipeg

E. Tim Sale, Executive Director

**United Way of Winnipeg**

Roy Essery, President

Kris Kristjansson

**Winnipeg Co-ordinating Committee for Disarmament**

Lynne Gibbons, Past Co-Chairperson

J. Allan Mossbarter, Curate, St. George's Anglican Church

Derek Wilson

**City of Winnipeg, Department of Environmental Planning**

Steven Barber, Historic Projects Co-ordinator

George Siamandas, Executive Director, Heritage Winnipeg Inc.

**Crossroads Resource Group**

William Goddard, Co-ordinator

Kenneth Emberley

**J.D. Wahn**, Professor of Administrative Studies, University of Manitoba

**University of Manitoba, Political Economy Group**

Cy Gonick, Head, Department of Economics, University of Manitoba

Robert Chernomas, Assistant Professor of Economics, University of Manitoba

Fletcher Barager

Stephen Gelb

Michael Janzen

**Dakota Ojibway Tribal Council**

Carl Roberts, Chairman; Chief, Roseau River Band

Lawrence Henry

Roy McKinney, Chief, Swan Lake Band

Morris Bear, Birdtail Sioux Band

Rufus Prince, Tribal Government Advisor

Andrew Beaulieu, Band Manager, Sandy Bay

Alfred Everett, Tribal Administrator

Don Graveson, Director, Economic Development

Larry Clark, Advisor

Ray Mason, Economic Development Councillor, Swan Lake Band

*Winnipeg, Manitoba*

*November 29, 1983*

**Theme Panel: Labour-Management Relations**

Alfred Carrothers, Dean of Common Law, University of Ottawa

Bernard Miller, Vice-President, Atlantic Canada Region, Air Canada  
Richard Martin, President, Manitoba Federation of Labour  
Gary Doer, President, Manitoba Government Employees' Association  
Rodrigue Bilodeau, Chairman and Chief Executive Officer, Honeywell Limited

**Association of Canadian Community Colleges**

W.G. Forbes, President; President, Red Deer College  
Gérard Raymond, First Vice-President; Principal and Chief Executive Officer,  
Campus de Bathurst, Collège communautaire du Nouveau-Brunswick  
C.H. Howard, Second Vice-President; Director and Chief Executive Officer,  
Red River Community College

**National Union of Provincial Government Employees**

John Fryer, President; Vice-President, Canadian Labour Congress  
J. Richard Proctor, Assistant to the President  
Gary Doer, President, Manitoba Government Employees' Association

**Manitoba Federation of Labour**

Richard Martin, President  
Gary Russell, Director of Research

**Winnipeg Labour Council**

Paul Moist, First Vice-President  
Howard Matthews, Delegate

**Derek Hum**, Professor, St. John's College, University of Manitoba

**Liberal Party of Manitoba**

Diana Ryback, President  
David Matas

*Winnipeg, Manitoba  
November 30, 1983*

**Canadian Federation of Agriculture**

Glenn Flaten, President  
David Kirk, Executive Secretary

**University of Manitoba, Faculty of Agriculture**

Robert C. McGinnis, Dean of Agriculture  
J.C. Gilson, Professor of Agricultural Economics  
E.W. Tychniewicz, Head, Department of Agricultural Economics  
and Farm Management  
L.E. Evans, Head, Department of Plant Science  
G.E. Laliberté, Head, Department of Agricultural Engineering  
M.E. Seale, Associate Dean of Agriculture  
S.C. Jay, Head, Department of Entomology

**Grocery Products Manufacturers of Canada**

George Fleischmann, President and Chief Executive Officer  
Thomas D. Smyth, Vice-Chairman; President and Chief Executive Officer,  
H.J. Heinz Company of Canada Limited  
John D. Herrick, Director; Chairman, General Mills Canada, Inc.  
A. Jan d'Ailly, Director; President, Natalik Inc.

**Canadian Food Processors' Association**

Michael Teeter, Vice-President

Elmer Banting, President

Takeo Murata, Chairman

Clare Proctor, Vice-Chairman

Arthur W. Walker, President, Hardee Farms International Limited

**Canola Crushers of Western Canada**

Robert Broeska, Executive Director

John Smythe, Vice-Chairman

**Retail Council of Canada**

Alasdair J. McKichan, President

Gerald Doucet, Senior Vice-President, Policy

J.P. Carter, Vice-President; General Manager, Food Division

Mervin Booty, President, Westfair Foods Limited

James Waters, Vice-President, Canada Safeway

Raymond Bertrand, President, Canada Grocery Distributors Institute

**Consumers' Association of Canada (Manitoba Branch)**

Ruth Titheridge, Chairperson, National Food Committee

Margaret Soper, Vice-President, National Consumers' Association; Chairperson,  
Manitoba Food Committee

Joan Friesen, National Food Committee

**Kenneth Emberley, Crossroads Resource Group**

*Toronto, Ontario*

*December 1, 1983*

**Municipality of Metropolitan Toronto**

Paul Godfrey, Chairman

Douglas P. Floyd, Executive Director, Economic Development

Richard O'Brien, Chairman, Economic Development and Planning Committee of  
Metropolitan Toronto

Donald R. Richmond, Deputy Commissioner, Community Services; General Manager,  
Metro Housing Co. Limited

**Canadian Federation of Independent Business**

John Bulloch, President

Patricia Johnston, Senior Vice-President

Brien Gray, Vice President

Richard Wietfeldt, Chief Economist; Director, Research

Pierre Clément, Chargé d'affaires, Québec

**Vanier Institute of the Family**

Johann W. Mohr, President

Doris Badir, Chairperson, Executive Committee

Robert Glossop, Co-ordinator, Programs; Director, Research

David Ross, Consultant

**Canadian Institute for Economic Policy**

Walter Gordon, Chairman

Abraham Rotstein, Vice-Chairman; Professor of Economics, University of Toronto

**York University, Faculty of Administrative Studies, Economic and Corporate Development, Research Unit**

Donald J. Daly, Professor of Economics

**Data Resources of Canada**

William F. Empey, Vice-President and General Manager

**Canadian Business and Industry International Advisory Council**

J. Hugh Stevens, Chairman; Chairman, Canada Wire and Cable Limited

William George Deeks, Chairman, MNE Committee; Executive Vice-President, Noranda Sales Corporation Limited

Graeme Clive Hughes, Executive Vice-President and Secretary, Canadian Manufacturers' Association

Deane D. Sherman, Trade Policy Committee; Manager, Government Relations, C.I.L. Inc.

J.E. Toten, Vice-Chairman, Business and Industry Advisory Committee to the OECD; Special Advisor, Bank of Montreal

**Canadian Importers Association Inc.**

Keith Dixon, President

Bryan Martin, Chairman; President, Sony Canada Limited

Robert F. Gulliford, Vice-Chairman; Vice-President, Royal Bank of Canada

Tim Chisholm, Vice-Chairman; President, Ronald A. Chisholm Limited

Tom S. Nease, Past Director; President, Adidas Canada

Richard S. Gottlieb, Director; Legal Counsel, Association Footwear Import Committee

**United Auto Workers**

Robert White, Director for Canada, International Vice-President

Sam Gindin, Director, Research

Buzz Hargrove, Assistant to the Director

*Toronto, Ontario - Panel A*

*December 2, 1983*

**Social Planning Council of Metropolitan Toronto**

Reverend Eilert Frerichs, President

David Wolfe, Board of Directors; Assistant Professor of Political Science, University of Toronto

Jeffrey Patterson, Senior Project Director

Leon Muszynski, Program Director

**Labour Council of Metropolitan Toronto**

Wally Majesky, President

Michael Lyons, Executive Secretary

Irene Harris, Director, Projects

**Toronto Board of Education**

Penny Moss, Chairman

Bob Spencer, Trustee

Charles Taylor, Superintendent of Curriculum

**Petro-Canada**

W.H. Hopper, Chairman and Chief Executive Officer

John McNicholas, Director, Economics, Public Policy and Regulatory Affairs



**Urban Transportation Development Corporation Limited**

Kirk W. Foley, President and Chief Executive Officer

P.H. Stevenson, Vice-President, Corporate Affairs

**Canadian Bankers' Association**

Robert M. MacIntosh, President

Robert W. Korthals, President, Toronto-Dominion Bank

A. Warren Moysey, Senior Executive Vice-President,

Canadian Imperial Bank of Commerce

Hugh S. Hardy, Senior Vice-President, Public Affairs, Royal Bank of Canada

**Camco Incorporated**

Colin M. Harper, President and Chief Executive Officer

Raymond Thompson, Vice-President, Corporate Planning and Development

**Board of Trade of Metropolitan Toronto**

John Clarry, President

Stanley Edwards, Chairman, Economic Policy Committee

Fred Hamilton, Vice-President

W.S. Campbell, Treasurer

Bengt V. Gestrin, Economic Policy Committee

**Cartier Circle**

Peter Detmold, President

Kevin Charlebois, Vice-President

W.H. Pope, Professor of Economics, Ryerson Polytechnical Institute

George Mowbray, President, MPI

D.G. Hull, Manager, Canadian Business Opportunities, DSS

*Toronto, Ontario - Panel B*

*December 2, 1983*

**G.A. Jewett**

**Peter Lowry**

**Burns Fry Limited**

Peter Andersen, Chief Economist

Carl Wostenholme, Director, Government Finance

Ben Joyce, Senior Economist

**Association of Canadian Financial Corporations**

Malcolm Stewart, Chairman; Executive Vice-President, Commercial Credit Corporation Limited

Andrew Salmon, First Vice-Chairman; Vice-President, Ford Credit Canada Limited

Donald Bennett, Second Vice-Chairman; President, Household Finance Corporation

Robert McClure, Director; President and General Manager, Genelcan Limited

Carne Bray, President

**Executive Committee, Foreign Bank Section of the Canadian Bankers' Association**

Roy Hall, President, National Westminster Bank

Terry Upson, President, Chemical Bank of Canada

N. Choi, President, Korea Exchange Bank of Canada

Giacono Morandi, President, Banca Commerciale Italiana of Canada

**Canadian Life and Health Insurance Association Inc.**

Ian Mair, Past-Chairman; President for Canada, Prudential  
Insurance Company Limited

John Panabaker, Chairman; Chairman and Chief Executive Officer,  
Mutual Life Insurance Company

Jean-Denis Vincent, President, Alliance Compagnie Mutuelle d'Assurance-Vie  
Gerald M. Devlin, Executive Vice-President

**National Pensioners and Senior Citizens' Federation**

John Van Waggoner, First Vice-President

Jack Lerette, Office Manager

Joyce King, Secretary

Reg Screen, General Board

**London Life Insurance Company**

Earl H. Orser, President and Chief Executive Officer

Tom Allan, Vice-President, Investments

Norm Epp, Vice-President, Finance

Bob Lackey, Vice-President, Corporate Planning

Jim Etherington, Director, Corporate Affairs

*Toronto, Ontario - Panel A**December 5, 1983***Canadian Association of University Teachers**

Sarah J. Shorten, President

Donald C. Savage, Executive Secretary

**Ontario Secondary School Teachers' Federation**

Malcolm Buchanan, President

Jim Head, Executive Officer

Vince Greco, Research Committee

Wendell Fulton, Legislative Researcher

Shelagh Luka, Status of Women Committee

**Government of Ontario**

The Honourable Larry Grossman, Treasurer of Ontario

Bryan Davies, Assistant Deputy Minister, Office of Economic Policy

Brock A. Smith, Assistant to the Deputy Minister, Office of Budget and

Intergovernmental Finance, Ministry of Treasury and Economics

Gregor Robinson, Senior Policy Advisor

**Canadian Foundation for Economic Education**

Gary Rabbior, Executive Director

**Canadian Association of Women Executives**

Elizabeth Stewart, President; Director of Planning, TransAmerica Life Insurance

Barbara Eastman, Chair, Legislative Committee; Policy Advisor,

Royal Bank of Canada

Patricia O'Malley, Vice-President, External Relations; National Director,

Accounting Resources, Thorne Riddell

Lucy Greene, Chair, Affirmative Action Subcommittee; Assistant Director,

Individual Insurance Marketing, Sun Life

Nuala Beck, Legislative Committee; Vice-President, Director,

Pitfield, MacKay, Ross Limited

**Society of Management Accountants of Canada**

William Richardson, President

D. Teal Lowery, Vice-President

Reginald Dugré, Vice-President

William E. Langdon, Executive Vice-President

**Trent University**

Donald Theall, President and Vice-Chancellor

Erica Cherney, Chairman

Susan Wheeler, Director, Communications

**Canadian Machine Builders' Association**

J.J. Havlik, President

H.B. Iron, Secretary-Treasurer

John Kershaw, Director

**Canadian Association of School Administrators**

Larry Moss, President

Wayne Kyle, President-Elect

Louise Lapalme, Executive Secretary

Freeman Witty, Past President

**C.I.L. Incorporated**

C.H. Hantho, President and Chief Executive Officer

D.I.W. Braide, Senior Vice-President

R.J. Gallivan, Senior Consultant, Human Resources

*Toronto, Ontario - Panel B*

*December 5, 1983*

**Ontario Federation of Students**

Ian Nelmes, Chairperson

Terry Fallis, Chairperson, Economic Policy Committee

Richard Balnis, Researcher

Tony Palmer, Economic Policy Committee

**Management Council for Responsible Employee Relations**

R.J. Gallivan, Senior Consultant, Human Resources, C.I.L. Inc.

A.Y. Fortier, Director, Corporate Relations, Noranda Mines

V. Harris, Manager, General Industrial Relations, Stelco Inc.

S.J. Surma, Vice-President, Industrial Relations, Ford Motor Company

E.A. Taylor, Vice-President, Human Resources, Westinghouse (Canada) Limited

**Canadian Society for Professional Engineers**

Greg McNeice, President

Peter De Vita, President-Elect

Murray McNroy, Secretary

Aziz Akhtar, Director

Walter Bilanski

**Ontario Confederation of University Faculty Associations**

Bill Jones, President

Patrick Wesley, Executive Director

Helen Breslauer, Senior Research Officer

**Canadian Congress for Learning Opportunities for Women**

Susan McCrae Vander Voet, Executive Director

Dorothy MacKeracher, Advisory Committee

Audrey Swail, Ontario Director

*Toronto, Ontario - Panel A*

*December 6, 1983*

**CNCP Telecommunications**

J.G. Sutherland, President

Carl Beigie, Advisor

Ruth Corbin, Director, Policy Development

Joe Schmidt, Vice-President, Regulatory and Government Matters

**Canadian Business Equipment Manufacturers' Association**

Charles H. Rust, President; President, STC Canada Inc.

Peter Brophey, Vice-President; Vice-President, Corporate Affairs, Xerox Canada Inc.

Grant Murray, Director; Vice-President, Law and Corporate Relations,

IBM Canada Limited

John Neufeld, Director; President, Arconas Corporation

**Canadian Electrical Association**

Milan Nastich, President; President and Chairman, Ontario Hydro

Donald Priestman, Chairman, Economic Section; Corporate Economist, B.C. Hydro

Mitchell R. Rothman, Vice-Chairman, Economic Section; Chief Economist,

Ontario Hydro

**University of Waterloo Faculty of Engineering**

W.C. Lennox, Dean

E.L. Holmes, Director, Research

J.A. Buzacott, Professor of Management Science

John Schey, Professor of Mechanical Engineering

**Frank Maine, President, Frank Maine Consulting Limited**

*Toronto, Ontario - Panel B*

*December 6, 1983*

**Dow Chemical Canada Inc.**

James M. Hay, Chairman

**Christian Farmers' Federation of Ontario**

Tom Oegema, President

Elbert van Donkersgoed, Research and Policy Director

Martin Oldengarm, General Manager

**Ontario Institute of Agrologists**

Donald McArthur, Executive Director

Bert Christie, President-Elect

Murray MacGregor, Professor of Agricultural Economics, University of Guelph

**Ontario Federation of Agriculture**

Harry Pelissero, First Vice-President

Brigid Pyke, Second Vice-President

Harry Zwerver, Executive Director



S. Veeraraghavan, Manager, Research Department  
Susan Johnston, Assistant Manager, Research Department

**Canadian Urban Transit Association**

A. Ross, President  
A. Cormier, Executive Director  
Don Kershaw, Associate Members' Committee

**Bank of Montreal**

William D. Mulholland, Chairman and Chief Executive Officer  
Lloyd Atkinson, Senior Vice-President, Chief Economist

**Bell Canada Enterprises**

A. Jean de Grandpré, Chairman and President  
Orland Tropea, Deputy Chairman  
F. Dale Orr, Chief Economist

**Canadian General Electric Company Limited**

Alton S. Cartwright, Chairman and Chief Executive Officer  
David F. Abel, Vice-President, Corporate Strategic Planning

**BP Selco Inc.**

Patrick C. MacCulloch, President and Chief Executive Officer

*Toronto, Ontario - Panel A  
December 7, 1983*

**Crowntek Incorporated**

Joseph Zelikovitz, Vice-President, Technology Planning

**Nordair Limited**

Kurt P. Peiffer, Executive Vice-President  
André Bourque, Vice-President, General Counsel and Secretary  
Moira Hudgin, Senior Manager, Tariffs and Regulatory Affairs

**Canadian Airline Pilots' Association**

Donna Burgess, Research Analyst  
Major-General R.F. Herbert, Chairman, Headquarters Special Projects

**Slacan Division of Slater Steel Industries Limited**

J. David Smart, General Sales Manager

**Canadian Mental Health Association**

Léandre Desjardins, Chairperson, Human Impact of Unemployment Committee  
Sharon Kirsh, Project Coordinator, Human Impact of Unemployment Project  
Peter Penz, Human Impact of Unemployment Committee

**United Way of Metropolitan Toronto**

John E. Richardson, Chairman, United Way Board of Trustees  
James MacKay, Chairman, Government Relations Committee  
Anne Golden, Director, Planning, Allocations and Government Relations  
Ted Garrard, Associate, Planning, Allocations and Government Relations

**Canadian Red Cross Society**

David Balfour, President  
George Weber, Secretary General  
Dwight Mihalicz, Executive Assistant to the Secretary General

**Canadian Centre for Philanthropy**

Edward Waitzer, President, Agora Foundation

Gerald Wright, Vice-President, Donner Canadian Foundation

Harry Beatty, Legal Counsel, Ontario Association for the Mentally Retarded

John O'Leary, Director, Development, Frontier College

**Institute of Donations and Public Affairs Research**

Richard A. Hopkinson, President

Mary Louise Clements, Ontario Representative

Peter R. MacGibbon, Director

Charles Perrault, Director

**Social Planning and Research Council of Hamilton and District**

Anthony Butler, President

Jody Orr, Senior Research Associate

**Hamilton and District Labour Council**

William C. Thompson, Secretary; Chairman, Political Action Committee

Lynn Spencer, Executive Officer; Chairperson, Full Employment Committee

*Toronto, Ontario - Panel B*

*December 7, 1983*

**Genstar Corporation**

Angus MacNaughton, Chairman

Ross Turner, President

Malcolm Carden, Manager, Corporate Planning

**Ontario Public Service Employees Union**

Sean O'Flynn, President

**TVOntario**

David Walker, Executive Director

**National Action Committee on The Status of Women**

Doris Anderson, President

Chaviva Hosek, Vice-President; Chairperson, Federal-Provincial Relations  
Funding Committee

Jennifer Keck, Member-at-Large

Laurell Ritchie, Employment Committee

**Paradigm Health**

Neville Chenoy, Health Care Planning Consultant, Sisters of St. Joseph

Suzanne Jackson, Health Policy Analyst, Ontario Council of Health

Robert James, General Practitioner; Chairman, OMA Committee on  
Psychosomatic Medicine

Christine Daly, Health Care Planning Assistant, Sisters of St. Joseph

**Canadian Rehabilitation Council for the Disabled**

Jean Caine, First Vice-President

Bruce Savage, Regional Vice-President, Ontario

J.R. Sarney, National Executive Director

**Marilou McPhedran and Elizabeth Symes**

**Family Service Association of Metropolitan Toronto**

Irene Fink, President

Robert Couchman, Executive Director

Judy Sutcliffe, Chairperson, Social Action Committee

William Oaker, Public Relations Committee

**YWCA of Metropolitan Toronto**

Ellen Campbell, Executive Director

Anne Wood, Chairperson, Social Justice Committee

Jean Emond, Chairperson, Employment Subcommittee

Jennifer Robertson-Decker, Chairperson, Social Action Committee

Judy Campbell, Social Action Co-ordinator

*Toronto, Ontario*

*December 8, 1983*

**Theme Panel: Growth and Development**

David Slater, Chairman, Economic Council of Canada

Arthur Smith, Past Chairman, Economic Council of Canada

Robert A. Mundell, Professor of Economics, Columbia University

André Raynauld, Past Chairman, Economic Council of Canada

**Gunnar Tannis****Peter R. Gorman III and Ryan M. Gorman****Canadian Association on Gerontology**

R. Bayne, President

Norman Blackie, Executive Director

Sheila Neysmith, Chairperson, Social Welfare Division

**Don Toppin**, Chairman, Committee on Toronto/2000

**Austin Beutel****A.R. Clarke and Co. Limited**

David Goldberg, President

Gary Goldberg, Executive Vice-President

Martin O'Connell, Consultant

*Toronto, Ontario - Panel A*

*December 9, 1983*

**Maclean-Hunter Limited**

Donald G. Campbell, Chairman and Chief Executive Officer

**Housing and Urban Development Association of Canada**

John Sandusky, President-Elect

Kenneth Kyle, Chief Operating Officer

**Regional Municipality of York**

Robert Forhan, Chairman

Michael McDonald, Executive Assistant

**University of Toronto, Institute of Environmental Studies**

Henry A. Regier, Associate Director; Professor of Zoology

R.E. Munn, Professor of Physics and Environmental Studies

D. MacKay, Professor of Chemical Engineering and Environmental Studies

A.P. Grima, Associate Professor of Geography and Environmental Studies

**Green Party of Ontario**

Susan Berlin

Joell Vanderwagen

Ron Pate

**Canadian Environmental Law Research Foundation**

Doug Macdonald, Executive Director

Marcia Valiante, Research Director

**Community Forum on Shared Responsibility**

Kenise Murphy Kilbride, Steering Committee

David Walsh, Steering Committee

**Dan Heap, MP**

*Toronto, Ontario - Panel B*

*December 9, 1983*

**Anglican Church of Canada**

Right Reverend John Bothwell, Bishop of Niagara

Venerable Archdeacon Harry Hilchey, General Secretary, General Synod

Reverend Peter Hamel, Consultant, National Affairs

Reverend Don Brown, Consultant, Social Ministries

**Council of National Ethnocultural Organizations of Canada**

Laureano Leone, President

Andrew Cardozo, Consultant

**Alliance of Canadian Cinema, Television and Radio Artists**

Bruce MacLeod, National President

Paul Siren, General Secretary

Jane Craig, Director, Communications

**Paul Audley and Associates Limited**

Paul Audley, President

**Campeau Corporation**

Robert Campeau, Chairman and Chief Executive Officer

David King, President and Chief Operating Officer

Andrew Jacob, Senior Director, Commercial Development and Special Projects

Jack Carr, Professor of Economics, Director of Graduate Studies,

Associate Chairman, University of Toronto

**Communist Party of Canada**

William Kashtan, General Secretary, Leader of the Party

William Stewart, Labour Secretary

John MacLennan, Ontario Organizer

Gerry van Houten, Director, Research



**Public Interest Advocacy Centre**

Andrew Roman, Executive Director and General Counsel  
Kathy McLeod

*Hull, Quebec - Panel A*

*December 12, 1983*

**Canadian Labour Congress**

Dennis McDermott, President  
Shirley Carr, Executive Vice-President  
Richard Mercier, Executive Vice-President  
Ronald Lang, Director, Research  
D. O'Hagan, Chief Economist

**Business Council on National Issues**

Rowland Frazee, Chairman; Chairman and Chief Executive Officer,  
Royal Bank of Canada  
Thomas d'Aquino, President  
Gordon Fisher, Vice-Chairman  
Peter Vivian, Senior Associate  
Dwayne Wright, Senior Associate  
Jock Finlayson, Director, Policy Analysis and Research  
Todd Rutley, Research Associate

**Mining Association of Canada**

Harold Fargey, President  
William James, First Vice-President  
Walter Curlook, Second Vice-President  
John Bonus, Managing Director  
Roy Woodbridge, Director, Mineral Economics

**Canadian Federation of Labour**

James McCambly, President  
Ken Rose, Vice-President, International Brotherhood of Electrical Workers  
Warner Baxter, Vice-President, International Union of Elevator Constructors

**International Association of Machinists and Aerospace Workers**

Val Bourgeois, Administrative Assistant  
Louis Erlichman, Director, Canadian Research  
Joseph Hanafin, Director, Canadian Public Relations

**Machinery and Equipment Manufacturers' Association of Canada**

Joseph Romanow, President  
Kirk Tambling, Chairman; Vice-President and General Manager, WEEM United  
William Mallory, Past Chairman; President, Ingersoll-Rand Canada  
Lorne Varcoe, Vice-Chairman; President, Dorr-Oliver Canada Limited  
James Hepburn, Vice-Chairman; Vice-President, John T. Hepburn Company

**Alcan Aluminium Limited**

David Culver, President and Chief Executive Officer  
Harold Corrigan, Vice-President, Corporate Relations  
Neil Matheson, Public Affairs Analyst

**Pratt and Whitney Canada Incorporated**

Elvie L. Smith, President

**Canadian Federation of Deans of Management and Administrative Studies**

Bud Johnston, Director; Dean of Business Administration,  
University of Western Ontario

Claude LeBon, Dean of Administrative Sciences, Laval University

Michael Maher, Chairman; Dean of Management, University of Calgary

John Carson, Immediate Past-Dean of Administration, University of Ottawa

**Canadian Council of Professional Engineers**

John Evans, President

Alex Hemstock, President-Elect

Claude Lajeunesse, Executive Director

John R. McDougall, Chairman, Canadian Engineering Manpower Council

Norm Johnson, Executive Committee; President, Johnson Industries

**Federation of Canadian Municipalities**

Edward Brady, President; Mayor of Carlyle

Doreen Lawson, First Vice-President; Alderman of Burnaby

Marion Dewar, Second Vice-President; Mayor of Ottawa

Frank Moran, Third Vice-President; Mayor of Charlottetown

Beryl Gaffney, Alderman

James Knight, Executive Director

Penina Coopersmith

*Hull, Quebec - Panel B*

*December 12, 1983*

**Canadian Construction Association**

Robert Nuth, President

Donald P. Giffin, Chairman

Robert B. Schuett, Vice-Chairman

John C. Halliwell, Director, Labour Relations

William Nevins, Chief Economist

Russell Scrim, Vice-President, Beaver Construction

**Cadillac Fairview Corporation Limited**

Bernard Ghert, President and Chief Operating Officer

Miles McMenemy, Senior Vice-President, Corporate Affairs

**Urban Development Institute of Canada**

Edward Sorbara, President

Rick Bertrand, Executive Secretary

**Heritage Canada Foundation**

John Mackenzie, Chairman

Douglas Franklin, Director, Public, Corporate and Government Relations

**Canadian Shipbuilding and Ship Repairing Association**

Henry M. Walsh, President

**Dominion Marine Association and Canadian Shipowners' Association**

Rear Admiral Robert W. Timbrell, President

**Association of Consulting Engineers of Canada**

Malcolm Williams, President; Vice-President, C.B.C.L. Limited

Collin Smallridge, Vice-President; Vice-President, Lavalin Inc.

Roger Pinault, Managing Director

Royal Galipeau, Director, Communications

**SNC Group**

Jean-Paul Gourdeau, President and Chief Executive Officer

Camille Dagenais, Chairman

Jacques Lefebvre, Vice-President, Public Affairs

*Hull, Quebec*

*December 13, 1983*

**Theme Panel: National Institutional Reform**

Pierre Tremblay, Editor-in-Chief, *Le Droit*

Clare Beckton, Associate Professor of Law, Dalhousie University

Allan R. Gregg, President, Decima Research Limited

Gordon Fairweather, Chief Commissioner, Canadian Human Rights Commission

The Honourable Senator P. Michael Pitfield

**Canadian Advisory Council on the Status of Women**

Lucie Pépin, President

Diane Bellemare, Economist, Université du Québec à Montréal

Magrit Eichler, Ontario Institute for Studies in Education

Jennifer Stoddart, Director, Research Services

Mary-Lee Stevenson, Senior Research Officer

**Canadian Conference of Catholic Bishops**

The Most Reverend Rémi de Roo, Bishop of Victoria; Chairman,

Episcopal Commission for Social Affairs

Mgr. Gérard Drainville, Bishop of Amos; Episcopal Commission for Social Affairs

Tony Clarke, Co-Director, Social Affairs Department

**Exécutif national du Parti québécois**

Bernard Landry, National Executive

Nadia Assimopoulos, National Executive

Jules-Pascal Venne, Adviser

**Retail Council of Canada**

Alasdair J. McKichan, President

Gérard Doucet, Senior Vice-President

George Eaton, Chairman; Deputy Chairman, T. Eaton Company

F. Hennig, Executive Vice-President, Corporate Operations

W.M. Crossin, President, Merle Norman Cosmetics

**Task Force on Microelectronics and Employment**

Margaret Fulton, Chairperson; President, Mount St. Vincent University

Ratna Ray, Director, Women's Bureau, Labour Canada

*Hull, Quebec - Panel A*

*December 14, 1983*

**Fédération des francophones hors Québec inc.**

Léo LeTourneau, President

Jean-Bernard Lafontaine, Director General

Richard Chevrier, Researcher

**Jean-Pierre Gaboury**

**Canadian Chamber of Commerce**

Samuel Hughes, President

C.M. "Red" Williams, Chairman, Agriculture Committee

Lorne Seitz, Senior Vice-President, International Affairs

John Lang, Chairman, Natural Resources Committee

John Bonus, Natural Resources Committee

Marsha Gordon, Policy Co-ordinator

Ken Page, Chairman, Education Committee

**Tourism Industry Association of Canada**

Garth Campbell, President and Chief Executive Officer

John Lawson, Vice-President

**Coalition of National Voluntary Organizations**

Ian Morrison, Chairman

Beatrice Olivastri

**Association of Universities and Colleges of Canada**

W. Andrew MacKay, President

Ronald Watts, Principal, Queen's University

Robert Patry, Director, Government Relations

**Canadian Federation of Students**

Graham Dowdell, Chairperson

Eileen Dooley, Accessibility Researcher

Bruce Tate, Economic Policy Researcher

Diane Flaherty, Executive Officer

**Rural Learning Association**

Ted Jackson, President

Alex Sim, Past-President

Susan Wismer, Community Economic Development Project

**Canadian Association For Adult Education**

Ian Morrison, Executive Director

Paul Bélanger, Director

**Canadian Teachers' Federation**

Brian Shortall, President

Stirling McDowell, Secretary-General

Wilfred Brown, Director, Economic Services

**Centrale de l'enseignement du Québec**

Ginette Dion, Vice-President

Pierre Beaulne, Economist

**Canadian Union of Public Employees**

Jeff Rose, National President

John Calvert, Senior Officer, Research Department

Gil Levine, Director, Research Department

Tony Wohlfarth, Officer

Randy Sykes, Assistant Director

**Prince Edward Island Potato Marketing Board**

Kees Visser, President

Don Anderson, Manager

Norman Clarey, Past Chairman



Garth Wilkie, Vice-Chairman  
Donald MacKenzie, Grower-Exporter

*Hull, Quebec - Panel B*  
*December 14, 1983*

**Science Council of Canada**

Stuart Smith, Chairman  
James Gilmour, Director, Research  
Guy Steed, Associate Director, Research

**National Research Council of Canada**

Larkin Kerwin, President  
William A. Cumming, Executive Vice-President  
Robert de Coster

**Agricultural Institute of Canada**

Clay Switzer, President  
A. Terauds, General Manager  
J. Dumanski

**Natural Sciences and Engineering Research Council of Canada**

Gordon MacNabb, President  
Arthur Bourns, Visiting Research Officer

**Professional Institute of the Public Service of Canada**

Jack Donegani, President  
Ken Gibson, Acting Manager, Employment Relations  
Ida Irwin, Assistant Information Officer

**Canadian Chemical Producers' Association**

Jean Bélanger, President  
Graham C. Gibb, Director, Economic Affairs  
Wilburt Canniff, Assistant to the President; Director, Special Projects

**Canadian Gas Association**

D. Earl Alderson, President and Chief Administrative Officer; President and Chief  
Operating Officer, Canadian Gas Research Institute

**Canadian Federation of Professional Foresters' Associations**

Allen Hopwood, Past President, Association of B.C. Professional Foresters  
William Hall, Ontario Professional Foresters' Association  
Claude Turmel, Ordre des ingénieurs forestiers du Québec

**Canadian Institute of Forestry**

Gilbert Paillé, President  
R.J. Bouchier, Executive Director  
P.J.B. Duffy, Chairman, Working Group, Forest Policy

**Canadian Export Association**

Paul Soubry, Chairman  
Reg Barclay, Vice-Chairman  
Tom M. Burns, President

**Atomic Energy of Canada Limited**

James Donnelly, President and Chief Executive Officer  
Ara Mooradian, Senior Vice-President  
Paul O'Neill, Corporate Executive Vice-President  
Fred Belaire, Director, Economic Planning

**Conseil canadien de la coopération**

Henri-Paul Trudel, President  
Denis Rochon, Vice-President  
Richard Savoie, Executive Committee  
Yvan Forest, Director-General

**Canadian Soft Drink Association**

Tibor P. Gregor, Executive Director

*Ottawa, Ontario - Panel A*

*December 15, 1983*

**Theme Panel: Federal-Provincial Relations**

Gordon Robertson, President, Institute for Research on Public Policy  
Gil Rémillard, Professor of Law, Laval University  
Anthony Scott, Professor of Economics, University of British Columbia; MacKenzie  
King Professor, Canadian Studies, Harvard University  
John Whyte, Professor of Law, Queen's University  
Rad Latimer, President and Chief Executive Officer, TransCanada PipeLines

**YWCA of Canada**

Dana Stehr, Executive Director  
Lynne Tyler, National Board

**Pat and Hugh Armstrong**

**The Honourable Judy Erola**, Minister Responsible for the Status of Women  
Maureen O'Neil, Co-ordinator, Status of Women  
Susan Sheehan, Senior Analyst, Economic Policy  
Monique Charlebois, Senior Analyst, Legal Policy

**The National Council of the YMCA's of Canada**

Charles Greb, Chairperson  
Rix Rogers, Chief Executive Officer  
Anthony Patterson, Government Relations Advisory Committee  
Jane Côté, Director, Ottawa YM-YWCA  
Rick Patten, Director, Ottawa Office

**Canadian Hospital Association**

Claire Labrèche, Chairman  
Jean-Claude Martin, President  
Daniel LeTouzé, Vice-President, Research

**Canadian Health Coalition**

Richard Haughian, Chairperson  
Carol Richardson, Executive Co-ordinator  
Margaret Vowles, National Senior Citizens and Pensioners' Organization  
Joseph Hanafin, International Association of Machinists

*Ottawa, Ontario - Panel B*  
*December 15, 1983*

**Tom de Fayer**

**Roger Voyer**, Principal, Nordicity Group Limited

**Tom Atkinson**, Senior Project Director, Research for Management, Hay Associates  
Canada Limited

**Kimon Valaskakis**, Director, GAMMA Group

*Ottawa, Ontario - Panel A*  
*December 16, 1983*

**The Honourable André Ouellet**, Minister of Labour  
Mark R. Daniels, Deputy Minister  
William P. Kelly, Senior Assistant Deputy Minister

**Canadian Institute of Chartered Accountants**

William D. Grace, First Vice-President; Chief Financial Officer and Director,  
Canadian Utilities Limited

N. Glenn Ross, Partner, Coopers and Lybrand

James R. Brown, Senior Partner, Peat, Marwick, Mitchell and Co.

**Grand Council of the Crees of Quebec**

Billy Diamond, Grand Chief and Chairman

James O'Reilly, Legal Advisor

**Inuit Circumpolar Conference**

Mark Gordon, Vice-President for Canada; First Vice-President, Makivik Corporation

Rhoda Innusuk, Executive Council Member for Canada

Peter Jull, Special Assistant

**City of Ottawa**

Marion Dewar, Mayor of Ottawa

**South Grenville District High School - Grade 13 Geography Class**

Donna Burns

Terry Byrd

Clint Cameron

Heather Creamer

Sherry Marshall

Gary Heuvel

**Social Planning Council of Ottawa-Carleton**

Frank Martin, Executive Director

Joseph Verbruggen, Chairman, Income and Employment Committee

Jim Davidson, Co-ordinator, Income and Employment Committee

Catherine Casserly, Income and Employment Committee

**City of Hull**

Michel Légère, Mayor of Hull

**Co-operative Union of Canada and Canadian Co-operative Credit Society**

Ray Siemens, President, Co-operative Union of Canada

John Nicholson, Chairman, Canadian Co-operative Credit Society

Jonathan Guss, Corporate Counsel; Vice-President, Government Affairs,  
Canadian Co-operative Credit Society

Bruce Thordarson, Executive Director, Co-operative Union of Canada

**Michael Boyd**

**Ottawa-Carleton Board of Trade**

John Ferguson, Treasurer; President, JRF Financial Consultants Limited

Kevin Charlebois, Chairman, Finance and Taxation Committee; Vice-President,  
JRF Financial Consultants Limited

**Co-operative Housing Foundation of Canada**

Glenn Haddrell, Executive Director

Tom Webb, Government Relations Consultant

Robert Dowler, Research Program Co-ordinator

*Ottawa, Ontario - Panel B*

*December 16, 1983*

**Canadian Conference of the Arts and Canadian Crafts Council**

Micheline Tessier, President, Canadian Conference of the Arts

Brian Anthony, Acting National Director, Canadian Conference of the Arts

Patricia McClelland, President, Canadian Crafts Council

Peter Weinrich, Executive Director, Canadian Crafts Council

**United Way of Canada**

André Mailhot, President

Robert Myers, Executive Director

**National Council of Women of Canada**

May Nickson, Vice-President

Amy Williams, Past President

**Canadian Research Institute for the Advancement of Women**

Jill McCalla Vickers, Chairperson, Social Policy

Mary Lynn Stewart-McDougall, Associate Professor of History,  
Simon Fraser University

**Michael Cassidy, MPP**

**Via Rail Canada Inc.**

Harold Renouf, Chairman

**Standards Council of Canada**

Jean Roy, President

John Woods, Executive Director

Hugh Adam, Director, National Standardization

Albert Tunis, Director, Education and Information

**Canadian Federation of Communications Workers**

Boris Mather, Federal Chairman

James Kinkaid, Researcher





# Schedule of Participants In Public Debates May, June 1984

Montreal  
May 30, 31, and June 1, 1984

Agenda

- Day 1: a.m. Jobs and Costs; Education and Training; Social Support
- p.m. High Quality Basic Education  
Youth and Unemployment: A Special Case?
- Day 2: a.m. Trade and Industrial Development; Productivity;  
Resources and the Environment
- p.m. Industrial Restructuring: Adjustments
- Day 3: a.m. Intergovernmental Relations and the Economic Union;  
National Institutions
- p.m. The Role of the Supreme Court  
The Unfinished Constitutional Agenda

Moderator

Marc Laurendeau, Columnist for *La Presse* and Commentator for Radio Cité FM.

Participants

- Warren Allmand, MP, Chairman, Standing Committee on Labour  
Employment and Immigration
- Gérald Beaudoin, Law Faculty, University of Ottawa
- Denyse Bélanger-Rochon, President, Fédération des femmes du Québec
- Diane Bellemare, Economist, Université du Québec à Montréal
- Roger Blais, Centre d'innovation industrielle de Montréal,  
École polytechnique de Montréal
- Michel Blondin, Officer responsible for education and training,  
United Steelworkers of America
- Michael Boyd, Michael Boyd Investments Ltd.
- James Cadieux, Chairman, Economic Policy and Information  
Committee, Montreal Board of Trade
- Gretta Chambers, Columnist, *The Gazette*

Attended

- Day 3
- Day 3
- Day 1
- Days  
1, 2  
and 3
- Day 2
- Day 1
- Day 2
- Day 2
- Day 1

David Culver, President and Chief Executive Officer, Alcan Aluminium Limited	Day 2
Jean de Grandpré, Chairman, President and Chief Executive Officer, Bell Canada Enterprises	Days 1 and 2
Louis P. de Grandpré, Lafleur, Brown, de Grandpré	Day 3
Robert Després, Chairman, Atomic Energy of Canada	Day 2
René Didier, Dean of Administration, University of Moncton	Day 1
Vaughan Dowie, Executive Director, Alliance Quebec	Day 1
Ernest Drew, President and Chief Executive Officer, Celanese Canada	Day 2
Claude Ducharme, Desjardins, Ducharme	Day 3
Ghislain Dufour, Executive Vice-President, Conseil du patronat du Québec	Days 1 and 2
Anne Dutil, President, Procycle	Day 2
Martin Franklin, Economic Policy and Information Committee, Montreal Board of Trade	Day 3
Gérard Gras, 1st Vice-President, Confédération de l'union des producteurs agricoles	Day 2
Howard Hart, President, Canadian Pulp and Paper Association	Day 2
David Johnston, Principal and Vice-Chancellor, McGill University	Day 1
Richard Lande, Economic Policy and Information Committee, Montreal Board of Trade	Day 3
Gonzague Langlois, Director General, Association des mines de métaux du Québec	Day 2
M.A. (Mun) Lavigne, Chairman, Business-Education Committee, Montreal Board of Trade	Day 1
Jean-Claude Lavoie, Mayor of Shipshaw	Day 1
Louis LeBel, bâtonnier du Québec	Day 3
J. Maurice LeClair, President and Chief Executive Officer, Canadian National	Day 3
Jacques Lefebvre, Vice-President, Public Affairs, SNC Group	Days 2 and 3
Pierre Lortie, President, Montreal Stock Exchange	Day 2
André Mailhot, President, United Way Canada	Day 1
Yves Morency, Confédération des Caisses populaires et d'économie Desjardins du Québec	Day 2
Michel Nadeau, First Vice-President, Caisse de dépôt et de placement du Québec	Day 2
Alex K. Paterson, Chairman, Alliance Research and Education Institute	Day 3
Gil Rémillard, Law Faculty, Université Laval	Day 3
Michel Rhéaume, President, Association québécoise de la qualité	Day 2
Raymond Royer, Executive Vice-President, Bombardier Inc.	Day 2
Claude Ryan, MLA, Argenteuil	Day 3
Guy St-Pierre, President and Chief Executive Officer, Ogilvie Mills Ltd.	Day 2
David Schulman, Economic Policy and Information Committee, Montreal Board of Trade	Day 2
Louise Séguin-Dulude, Hautes études commerciales	Days 1 and 2
Thérèse Sévigny, Vice-President, Audience Relations, Radio-Canada	Day 3
Monique Simard, First Vice-President, Confédération des syndicats nationaux	Days 1, 2 and 3
Rodrigue Tremblay, Professor of Economics, Université de Montréal	Days 2 and 3

Ann Usher, Canadian Association for Adult Education	Day 1
Louise Vaillancourt, Board member, Bell Canada Enterprises	Day 3
John Weldon, Professor of Economics, McGill University	Day 1

*Halifax*  
*June 4, 5 and 6, 1984*

**Agenda**

Day 1:	a.m.	Jobs and Costs; Education and Training; Social Support
	p.m.	Job Creation Through Self-Reliance
Day 2:	a.m.	Trade and Industrial Development; Productivity; Resources and the Environment
	p.m.	Regional Economic Development
		The Future of Traditional Resource Sectors in the Atlantic Region
Day 3:	a.m.	Intergovernmental Relations and the Economic Union; National Institutions
	p.m.	Intergovernmental Relations and the Economic Union

**Moderator**

Rod Dobell, President, Institute for Research on Public Policy

**Participants**

Sandy Archibald, President, Britex Ltd.	<b>Attended</b> Day 1
Frederic Arseneault, Deputy Minister, New Brunswick Office of Government Reform	Day 2
Elizabeth Beale, Chief Economist, Atlantic Provinces Economic Council	Days 1, 2 and 3
Ann Bell, President, Newfoundland Advisory Council on the Status of Women	Day 1
Ron W. Bulmer, President, Fisheries Council of Canada	Day 2
J. Clair Callaghan, President, Technical University of Nova Scotia	Day 3
Rev. John Capstick, Coalition of Social Organizations in Cape Breton	Days 1 and 2
George Cooper, McInnes, Cooper & Robertson	Day 3
Harold D. Crowell, Chairman of the Board, Human Resources Development Association	Day 1
Peter Dorrington, Chairman, Dartmouth Chamber of Commerce	Day 3
D.A. Eisenhauer, President, Atlantic Bridge Co. Ltd.	Day 2
Christine Fagan, Chalker, Green, & Rowe	Days 2 and 3
Emery Fanjoy, Secretary, Council of Maritime Premiers	Days 2 and 3
Brian Flemming, Stewart, Mackeen & Covert	Day 3
Phil Fraser, Vice President, New Brunswick Association of Métis and Non-Status Indians	Day 1
Margaret Fulton, President, Mount Saint Vincent University	Day 1
John Godfrey, President, University of King's College	Days 1 and 3
John Graham, Economist, Dalhousie University	Day 3
Brian Greene, Assistant General Manager, St. John's Board of Trade	Day 2
Lance Hale, Executive Director, Voluntary Planning Board of Nova Scotia	Days 1 and 3
Eric Hammill, Secretary-Manager, P.E.I. Federation of Agriculture	Day 2

Alanna Hanrahan, Executive Secretary, Newfoundland and Labrador Youth Advisory Council	Day 1
Susan Holtz, Ecology Action Centre	Day 2
Tom Kent, Editor, <i>Policy Options</i>	Day 2
Eric Kierans, Economist, Dalhousie University	Days 2 and 3
A. Marino Kristjanson, Director of Research and Analysis, Association of Universities and Colleges of Canada	Day 1
Gilles LeBlanc, President, Fédération acadienne de la Nouvelle-Écosse	Day 1
David Leckie, President, Stokely-Van Camp of Canada Inc.	Day 2
B. MacCulloch, Executive Director, Pictou County Research and Development Commission	Day 1
Marilyn MacDonald, Former Editor, <i>Atlantic Insight</i>	Days 1 and 2
Wendell MacDonald, Chairman, Canadian Manufacturers' Association, P.E.I. Branch	Day 2
Robert McKay, Manager, Regional Affairs, Petro Canada Exploration	Days 2 and 3
Fred MacKinnon, Director, Nova Scotia Senior Citizens Secretariat	Day 1
Greg MacLeod, Director, Federation of Community Development Corporations	Day 1
Sylvestre McLaughlin, Director General, Conseil économique du Nouveau-Brunswick inc.	Days 1, 2 and 3
Peter J. Nicholson, Executive Assistant, Bank of Nova Scotia	Day 2
Dan F. Potter, President, Novatron Information Corp.	Day 1
Paul Pross, Acting Director, Public Administration, Dalhousie University	Day 3
W.S. Robertson, President and Chief Executive Officer, Maritime Tel and Tel	Day 2
Penelope Rowe, Executive Director, Community Services Council	Days 1 and 3
A.M. Sinclair, Economist, Dalhousie University	Day 2
David Slater, Chairman, Economic Council of Canada	Day 2
Harold Snyder, Faculty of Engineering, Memorial University	Day 2
Elizabeth Walsh, Women Unlimited	Days 1 and 3
Lyndon Watkins, Editor, <i>Daily News</i>	Day 1
R.F. Weary, President, Bowater, Mersey Paper Co. Ltd.	Day 2
Bill Wells, President, Canadian Saltfish Corporation	Day 2
Fred Wien, Director, Maritime School of Social Work	Day 1
Gerald Yetman, President, Nova Scotia Federation of Labour	Day 2

*Vancouver*

*June 11, 12 and 13, 1984*

### Agenda

- Day 1: a.m. Jobs and Costs; Education and Training; Social Support  
p.m. Improving the Delivery of Services;  
Systematic Lifelong Learning
- Day 2: a.m. Trade and Industrial Development; Productivity;  
Resources and the Environment  
p.m. Secure and Growing Markets



Day 3: a.m. Intergovernmental Relations and the Economic Union;  
National Institutions  
p.m. Consultation in the Decision and Policy-Making Process

### Moderator

Rod Dobell, President, Institute for Research on Public Policy

### Participants

Judith Alexander, Professor of Economics, Simon Fraser University  
Robert Allen, Professor of Economics, University of British Columbia  
David Anderson, Professor of Law, School of Public Administration,  
University of Victoria

Larry Bell, Chief Executive Officer and General Manager,  
Vancouver City Credit Union  
Judith Bezeredi, Director, Health Department, City of Vancouver

Joan Blair, Women in Trades  
Doreen Braverman, Director, Canadian Manufacturers' Association;  
President, The Flagshop  
John Bruk, Chairman, Asia Pacific Foundation of Canada  
Len Bruton, Dean of Engineering, University of Victoria  
Diana Butler, Victoria Status of Women Action Group  
Marilyn Callaghan, Professor of Social Work, University of Victoria

William S. Cameron, Vice-President, Corporate Planning,  
British Columbia Resources Investment Corporation  
J.V. Clyne, Former Chairman, MacMillan-Bloedel; Visiting Professor,  
Simon Fraser University  
Charles Connaghan, Connaghan & Associates  
Nancy Cooley, Director, Intermediate Technology Development Group  
W.L. Day, President, Douglas College  
Glenn Drover, President, Canadian Association of Social Workers;  
Director of Social Work, University of British Columbia

Tex Enemark, President, Mining Association of British Columbia

J.E. (Ted) Fletcher, Vice-President, B.C. Group, Cominco Ltd.  
Pat Fulton, Former Regional Director, New Horizons  
Michael Goldie, Russell & DuMoulin  
Ian Gray, Former Chairman, CP Air; Visiting Professor of Business  
Administration, Simon Fraser University  
Craig Greenhill, Director of Institute Planning, British Columbia  
Institute of Technology  
Jack Hannam, Vice-Chairman, Northern Development Council

Michael Harcourt, Mayor, City of Vancouver  
George Hogham, Professor of Social Work,  
University of British Columbia  
Art Kube, President, British Columbia Federation of Labour  
Larry Kuehn, President, British Columbia Teachers' Federation  
Joy Leach, Past President, British Columbia Trustees Association

Martin Levin, Alderman, Victoria  
Bernice Levitz Packford, Executive Director, Capital Families

### Attended

Day 1

Day 2

Days 2  
and 3

Day 3

Days 1  
and 2  
Day 1

Day 3

Day 2

Day 1

Day 1

Days 1  
and 2

Day 2

Day 3

Day 2

Day 2

Day 3

Days 1  
and 3

Days  
1, 2  
and 3

Day 2

Day 1

Day 3

Day 1

Day 3

Days 2  
and 3

Day 3

Day 3

Day 2

Day 1

Days 1  
and 3

Day 3

Day 3

Gus Long, Editor, Federated Anti-Poverty Groups of British Columbia	Days 1 and 3
J. Ronald Longstaffe, Executive Vice-President and Director, Canadian Forest Products Ltd.	Day 1
John S. MacDonald, President, MacDonald Dettwiler & Associates Ltd.	Day 2
Darlene Marzari, Former Alderman, Greater Vancouver Regional District	Day 3
James G. Matkin, President, Employers' Council of British Columbia	Days 1, 2 and 3
Richard McAlary, Chief Economist, B.C. Central Credit Union	Day 2
Charles McCaffray, Principal, College of New Caledonia	Days 1, 2 and 3
Edward McWhinney, Professor of International Law and Relations, Simon Fraser University	Day 3
Audrey Moore, Mayor of Castlegar; President, Union of British Columbia Municipalities	Day 3
Ian Morrison, Executive Director, Canadian Association for Adult Education	Day 1
William A.W. Neilson, Professor of Law, University of Victoria	Day 3
David Nordstrom, Co-ordinator, Capital Families	Day 1
Peter Pearse, Professor of Forestry-Economics, University of British Columbia	Day 1
George Pederson, President, University of British Columbia	Day 1
Bruce Pepper, President, Vancouver Board of Trade	Day 2
Clay Perry, International Woodworkers of America	Day 2
Art Phillips, Former Mayor of Vancouver	Day 2
John Poole, President, Daon Development Corporation	Day 2
Gideon Rosenbluth, Professor of Economics, University of British Columbia	Day 1
W. Saywell, President, Simon Fraser University	Day 2
W. Joseph Scott, Chairman, Prince Rupert Port Corporation	Day 3
Colin Smith, Owner and Manager, The Dolphins Fishing Resort, Campbell River	Days 1 and 2
Douglas Spray, Deputy Minister and Chairman, Steering Committee on Macdonald Commission, Executive Council, Yukon Government	Days 1, 2 and 3
Michael Walker, Director, Fraser Institute	Day 2
Alan Williams, Lawyer and Former Attorney General, British Columbia	Day 3
Jacob S. Ziegel, Professor of Law, University of Toronto	Day 3

## *Calgary*

*June 18, 19 and 20, 1984*

## **Agenda**

- Day 1: a.m. Jobs and Costs; Education and Training; Social Support  
p.m. Jobs and Equity
- Day 2: a.m. Trade and Industrial Development; Productivity;  
Resources and the Environment  
p.m. The Development and Husbanding of Natural Resources;  
The Agri-Food Industry

Day 3: a.m. Intergovernmental Relations and the Economic Union;  
National Institutions  
p.m. National Institutional Reform: The Senate and the House of Commons

# **Moderator**

Rod Dobell, President, Institute for Research on Public Policy

# **Participants**

# **Attended**

Palma Anderson, President, Saskatchewan Action Committee on the Status of Women	Days 1 and 3
Ted Azevedo, President, Saskatchewan Seniors Association Inc.	Day 1
Lloyd Barber, President, University of Regina	Days 1 and 2
David Brooks, Marbek Resource Consultants Ltd.	Day 2
Bob Church, Faculty of Medicine, University of Calgary	Day 2
Patricia C. Cooper, Canadian Advisory Council on the Status of Women	Days 1 and 3
Lawrence Copithorne, Professor of Economics, University of Calgary	Day 2
William D. Croft, President, Calgary Research and Development Authority	Day 1
Laurence G. Decore, Mayor, City of Edmonton	Day 3
Gordon Dorrell, Director, Lethbridge Research Institute, Agriculture Canada	Day 2
David K. Elton, President, Canada West Foundation	Day 3
Glenn Flaten, President, Canadian Federation of Agriculture	Day 2
J.P. Gallagher, Former Chairman and Chief Executive Officer, Dome Canada	Day 3
William A. Gatenby, President and Chief Executive Officer, Texaco Canada Resources Ltd.	Day 2
Roger Gibbins, Professor of Political Science, University of Calgary	Day 3
Gordon S. Gibson, Gibson & McCormick	Day 3
Bill Gold, Associate Editor, <i>Calgary Herald</i>	Days 1, 2 and 3
John Hagg, Chairman, Northstar Resources Ltd.	Day 1
John Harapiak, Manager of Agronomy, Western Co-operative Fertilizers	Day 2
J. Martin Hattersley, Hattersley, Mitchell & Follett	Day 3
Brian Heidecker, Canadian Cattlemen's Association	Day 2
Charles Hetherington, President and Chief Executive Officer, Panarctic Oils Ltd.	Day 2
The Honourable William Jarvis, MP	Day 3
Donald L. Karst, Executive Director, Calgary Family Service Bureau	Day 1
The Honourable Otto Lang, Executive Vice-President, Pioneer Grain Company Ltd.	Days 2 and 3
Léo Létourneau, President, Fédération des francophones hors Québec	Day 3
Gordon MacMurchy, President, Family Farm Foundation of Canada	Day 2
Allan J. Macpherson, President, Alberta Wheat Pool	Day 2
Thomas Maxwell, Vice-President and Senior Economist, Conference Board of Canada	Days 1 and 2
Peter McCormick, Professor of Political Science, University of Lethbridge; Canada West Foundation	Day 3
Donald K. McIvor, Chairman and Chief Executive Officer, Imperial Oil Limited	Day 2

Robert McKeon, Churches of Edmonton	Day 1
Alasdair J. McKichan, President, Retail Council of Canada	Day 2
Gwyn Morgan, President, Independent Petroleum Association of Canada	Day 2
A.R. Nielsen, Chairman, Canadian Petroleum Association	Days 1 and 2
James S. Palmer, Burnet, Duckworth & Palmer	Day 3
Richard Plain, Consumers' Association of Canada (Alberta)	Days 1 and 3
Chief Sol Sanderson, President, Saskatchewan Federation of Indian Nations	Days 1, 2 and 3
Brian L. Scarfe, Professor of Economics, University of Alberta	Day 1
Ian Smyth, Executive Director, Canadian Petroleum Association	Days 1, 2 and 3
Harvey Stalwick, Faculty of Social Work, University of Regina	Day 1
Don Stanley, President, Alberta Chamber of Commerce	Day 1
Stuart A. Thiesson, Executive Secretary, National Farmers Union	Days 1 and 2
Tim Tyler, Faculty of Social Welfare, University of Calgary	Day 1
Norman E. Wagner, President and Vice-Chancellor, University of Calgary	Day 1

#### *Toronto*

*June 26, 27 and 28, 1984*

#### **Agenda**

Day 1: a.m.	Jobs and Costs; Education and Training; Social Support
p.m.	The Implications of a Changing Demographic Profile
Day 2: a.m.	Trade and Industrial Development; Productivity; Resources and the Environment
p.m.	What are the Criteria for Determining the Openness of the Economy?
Day 3: a.m.	Intergovernmental Relations and the Economic Union; National Institutions
p.m.	Assuring Freedom of Trade Within Canada; Reconciling Conflicting Interests

#### **Moderator**

Rod Dobell, President, Institute for Research on Public Policy

#### **Participants**

Lou Applebaum	<b>Attended</b>
Ken Armson, Past President, Canadian Forestry Association	Day 1
Charles Black, Vice-President, Health Insurance, Canadian Life and Health Insurance Association	Day 2
James Black, President, Molson Companies Ltd. and Chairman, Canadian Manufacturers' Association	Day 1
John Bossons, Professor of Economics, University of Toronto	Day 3
Garth Campbell, President, Tourism Industry Association of Canada	Day 2
Stephen Clarkson, Professor of Political Science, University of Toronto	Day 2
Gail Cook, Executive Vice-President, Bennecon Ltd.	Day 2
Robert Couchman, Vanier Institute of the Family	Day 2
Gordon Cressy, President, United Way of Greater Toronto	Day 1
C. William Daniel, Chairman, Shell Canada	Day 1
Richard Danielson, Infonorth Computing Inc.	Day 2



Tom d'Aquino, President, Business Council on National Issues	Day 2
Marion Dewar, Mayor of Ottawa; Second Vice-President, Federation of Canadian Municipalities	Day 3
Anne Fawcett, Senior Partner, The Caldwell Partners	Day 2
Jan K. Fedorowicz, Manager, International Policy, Canadian Chamber of Commerce	Day 2
Ivan Feltham, Vice-President and General Counsel, Canadian General Electric	Day 3
Paul Fox, Principal, Erindale College, University of Toronto	Day 3
Ralph Garber, Dean, School of Social Work, University of Toronto	Day 3
Robert Gordon, Principal, Humber College	Day 1
Alexander Gray, President and Chief Executive Officer, Gray Tool Company of Canada Ltd.	Day 1
Hugh Hardy, Senior Vice-President, Royal Bank	Day 1
Douglas Hartle, University of Toronto	Day 3
Chaviva Hosek, National Action Committee on the Status of Women	Days 1, 2 and 3
Graeme Hughes, Senior Vice-President, Policy, Canadian Manufacturers' Association	Days 1, 2 and 3
Sam Hughes, President, Canadian Chamber of Commerce	Day 3
William James, Chairman, President and Chief Executive Officer, Falconbridge Limited	Day 2
Patrick Johnston, Executive Director, National Anti-Poverty Organization	Days 1 and 2
Andrew G. Kniewasser, President, Investment Dealers Association of Canada	Day 2
Hal R. Kroeker, Director, Public Policy Planning, Massey-Ferguson Limited	Day 2
Ken Kyle, Chief Operating Officer, Canadian Homebuilders Association	Day 2
Laureano Leone, President, Council of National Ethnocultural Organizations	Day 1
Peter M. Leslie, Director, Institute of Intergovernmental Relations, Queen's University	Day 3
Boris Mather, Federal Chair, Canadian Federation of Communications Workers	Day 3
Judith Maxwell, Consulting Economist, Currie, Coopers & Lybrand Ltd.	Day 2
Jim McCambly, President, Canadian Federation of Labour	Days 1, 2 and 3
Ian Morrison, National Voluntary Organizations	Day 3
Penny Moss, Chairman, Toronto Board of Education	Day 1
Donald A. Noble, Executive Vice-President, Finance and Administration, Northern Telecom Limited	Day 2
Dale Orr, Chief Economist, Bell Canada	Days 1 and 2
Jeffrey Patterson, Director of Research, Social Planning Council of Metro Toronto	Days 1, 2 and 3
Marilyn Pilkington, Osgoode Hall Law School	Day 3
Beryl Plumptre	Day 1

Elizabeth Poulin, President, Northwestern Ontario Women's Decade Council	Day 1
Gordon R. Robertson, Institute for Research on Public Policy	Day 3
Ken Rose, International Vice-President, International Brotherhood of Electrical Workers	Day 3
Anthony Scott, MacKenzie King Professor, Canadian Studies, Harvard University	Day 3
Leonard Shifrin, freelance columnist	Day 1
Byron Spencer, Professor of Economics, McMaster University	Day 1
The Honourable Robert Stanbury, Chairman and Chief Executive Officer, Firestone Canada Inc.	Day 1
Jennifer Stoddart, Director of Research, Canadian Advisory Council on the Status of Women	Days 1, 2 and 3
Jill Vickers, Director, Institute of Canadian Studies, Carleton University; Board Member, Canadian Research Institute for the Advancement of Women	Day 3
Peter E. Vivian, Business Council on National Issues	Day 3
F. Dwayne Wright, Business Council on National Issues	Day 1
Jean Wright, Economic Policy Researcher, Canadian Federation of Students	Day 1



## The Collected Research Studies

The studies listed below were prepared as background papers for the Royal Commission on the Economic Union and Development Prospects for Canada. Although written under the auspices of the Commission, the views expressed and the conclusions and recommendations contained in the studies are solely those of the authors and do not imply endorsement by the Chairman and Commissioners. At the time of writing, a few of the studies listed have not yet been completed or approved.

The studies have been grouped in volumes (also identified below) and, in co-operation with the Royal Commission, are being published in English by the University of Toronto Press, and in French by the Canadian Government Publishing Centre (Supply and Services).

The research program of the Commission was carried out under the direction of Ivan Bernier (Law and Constitutional Issues); Alan Cairns (Politics and Institutions of Government); and David C. Smith (Economics). Kenneth Norrie and John Sargent acted as co-directors of research for the concluding phase of the Economics program.





## ***Economics***

### **François Vaillancourt**

*Research Co-ordinator, Income Distribution and Economic Security, Volume 1*

#### ***VOLUME 1: INCOME DISTRIBUTION AND ECONOMIC SECURITY IN CANADA***

- |                       |   |
|-----------------------|---|
| François Vaillancourt | Income Distribution and Economic Security in Canada: An Overview                          |
| Mireille Ethier       | The Underground Economy: A Review of the Economic Literature and New Estimates for Canada |
| B.G. Dahlby           | The Incidence of Government Expenditures and Taxes in Canada: A Survey                    |
| Bernard Fortin        | Income Security in Canada   |
| Jean-Michel Cousineau | Unemployment Insurance and Labour Market Adjustments                                      |
| Mireille Ethier       | Survey of Pension Issues  |
| Gilles Grenier        | Health Care Costs in Canada: Past and Future Trends                                       |
| Jonathan R. Kesselman | Comprehensive Income Security for Canadian Workers  |

### **Donald G. McFetridge**

*Research Co-ordinator, Industrial Structure, Volumes 2-8*

#### ***VOLUME 2: CANADIAN INDUSTRY IN TRANSITION***

- |   |  |
|---|--|
| Donald D. McFetridge                                      | The Economics of Industrial Structure: An Overview                               |
| Michael Charette,<br>Robert R. Henry<br>and Barry Kaufman | The Evolution of the Canadian Industrial Structure: An International Perspective |
| R.S. Khemani  | Extent and Evolution of Competition in the Canadian Economy                      |
| E. Craig Elford and<br>William T. Stanbury                | Mixed Enterprises in Canada  |
| John R. Baldwin and<br>Paul K. Gorecki,<br>with J. McVey  | Canada-U.S. Productivity Differences in the Manufacturing Sector: 1970-1979      |
| Donald J. Daly  | Rationalization and Specialization in Canadian Manufacturing                     |
| Paul M. Bishop and<br>Harold Crookell                     | Specialization and Foreign Investment in Canada                                  |

#### ***VOLUME 3: TECHNOLOGICAL CHANGE IN CANADIAN INDUSTRY***

- |  |  |
|--|--|
| Jeffrey J. Bernstein                         | Research and Development, Patents, and Grant and Tax Policies in Canada          |
| Ned Ellis and<br>David Waite                 | Canadian Technological Output in a World Context                                 |
| Edwin Mansfield                              | Technological Change and the International Diffusion of Technology: A Survey     |
| Donald J. Lecraw                             | Corporate Operation and Strategy in a Changing World Environment                 |
| Donald G. McFetridge<br>and R. J. Corvari    | Technology Diffusion: A Survey of Canadian Evidence and the Public Policy Issues |
| Isaiah A. Litvak and<br>Christopher J. Maule | The Canadian Aluminum and Steel Industries                                       |

#### ***VOLUME 4: CANADIAN INDUSTRIAL POLICY IN ACTION***

- |                                       |   |
|---------------------------------------|---|
| Donald G. McFetridge                  | The Economics of Industrial Policy: An Overview                                 |
| Harold Crookell                       | The Impact of Government Intervention on the Major Appliance Industry in Canada |
| Sandford F. Borins<br>and B. Boothman | Crown Corporations and Economic Efficiency                                      |
| John Chant                            | An Agenda for Research on Financial Markets                                     |

Keith Acheson	Economic Regulation in Canada: A Survey
Donald G. McFetridge	Commercial and Political Efficiency: A Comparison of Government, Mixed and Private Enterprises

***VOLUME 5: ECONOMICS OF INDUSTRIAL POLICY AND STRATEGY***

Donald J. Lecraw	Industrial Policy in the United States: A Survey
Reuven Brenner and Léon Courville	Industrial Strategy: Inferring What It Really Is
Marsha Chandler and Michael J. Trebilcock	A Comparative Survey of Industrial Policies in Selected OECD Countries

***VOLUME 6: THE ROLE OF SCALE IN CANADA-U.S. PRODUCTIVITY DIFFERENCES***

John R. Baldwin and Paul K. Gorecki	Canada-U.S. Productivity Differences in the Manufacturing Sector 1970-1979
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***VOLUME 7: COMPETITION POLICY AND VERTICAL EXCHANGE***

F. Mathewson and R. Winter	Competition Policy and the Nature of Vertical Exchange
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***VOLUME 8: THE POLITICAL ECONOMY OF ECONOMIC ADJUSTMENT***

Michael J. Trebilcock	The Political Economy of Economic Adjustment: The Case of Declining Sectors
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**John Whalley**

*Research Co-ordinator, International Trade, Volumes 9-14*

***VOLUME 9: CANADIAN TRADE POLICIES AND THE WORLD ECONOMY***

John Whalley	Canadian Trade Policies and the World Economy
(in collaboration with Colleen Hamilton and Roderick Hill)	

***VOLUME 10: CANADA AND THE MULTILATERAL TRADING SYSTEM***

John Whalley	Canada and the Multilateral Trading System: An Introduction
Colleen Hamilton and John Whalley	The GATT and Canadian Interests: Summary of the Proceedings of a Research Symposium
Rodney de C. Grey	The Service Industries: A Note of Caution about the Proposal to Negotiate Rules About Traded Services
Colleen Hamilton and John Whalley	Non-Tariff Barriers and Canadian Trade Policy: Summary of the Proceedings of a Research Symposium
William Diebold	Cartelization and Managed Trade: The Problem of Quantitative Restrictions
Margaret Biggs	The Developing Countries in the International Trading System
Gerald K. Helleiner	Underutilized Potential: Canada's Economic Relations with Developing Countries
Colleen Hamilton and John Whalley	Canada and the Future of the Global Trading System: Summary of the Proceedings of a Research Symposium
C. Michael Aho	What Changes Are Needed at the International Level for Improving Trade Relations
John M. Curtis	Which Way: Canadian Trade Policy in a Changing World Economy
Ronald J. Wonnacott	Notes from an Address on the Proposal for a Canada- Japan Free Trade Area

***VOLUME 11: CANADA-UNITED STATES FREE TRADE***

Roderick Hill and John Whalley	Introduction: Canada-U.S. Free Trade
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Roderick Hill and John Whalley	A Possible Canada-U.S. Free Trade Arrangement: Summary of the Proceedings of a Research Symposium
Ronald J. Wonnacott	Potential Economic Effects of a Canada-U.S. Free Trade Agreement
Mel Watkins	Reservations Concerning a Free Trade Area
Bruce W. Wilkinson	Some Comments on Canada-U.S. Free Trade
William Diebold	U.S.-Canada Free Trade: An American View
James R. Markusen	Canadian Gains from Trade in the Presence of Scale Economies and Imperfect Competition
Richard G. Harris	Summary of a Project on the General Equilibrium Evaluation of Canadian Trade Policy
John R. Baldwin and Paul K. Gorecki	The Relationship between Trade and Tariff Patterns and the Efficiency of the Canadian Manufacturing Sector in the 1970s: A Summary
David F. Burgess	The Impact of Trade Liberalization on Foreign Direct Investment Flows
Colleen Hamilton and John Whalley	U.S. Trade Policies and Canadian Interests: Summary of the Proceedings of a Research Symposium
Raymond J. Ahearn and Alfred Reifman	The Future of U.S. Trade Policy
Peter Morici	Trends in U.S. Trade Policy and Non-Tariff Barriers
Andrew R. Moroz	Some Observations on Non-Tariff Barriers and their Use in Canada
Thorald K. Warley	Issues in Canadian Agricultural Trade Policy
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Boucher, Catherine	Herold, Richard	Ommanney, Denise
Bruneau, Theresa	Higgins, Robert	Ossent, Verena
Burrows, Diane	Hill, Roderick	Ouimet, Pierre
Cairns, Alan	Hooper, Anne	Paquette-Gagné, Brenda
Calverley, Collett	Huffman, Kenneth	Paquette, Diane
Cardinal, Ainslea	Husband, David	Parry, John
Cardinal, Lynne	Innes, Katie	Pattillo, Robert
Carpentier, Monique	Jackson, Karen	Pawlowicz, Jean
Chagnon, Pierre	James, Marian	Pirozynska, Julita
Charbonneau, Nicole	Julian, Matthew	Poisson, Gisèle
Charland, Pierre	Justinich, David	Pootmans, Diana
Chase, Vicky	Kaisin, Christiane	Potvin, Dan
Clarke, Victor	Krasnick, Mark	Potvin-Chartrand, Josée
Cleinge, Marguerite	Kymlicka, William	Prichard, Robert
Connell, Susan	Laframboise, Marc	Quinn, John
Connidis, Lilla	Laidler, David	Reid, Mado
Cook, Sheila-Marie	Lajoie, Andrée	Renaud, Marcel
Cornwall, Kay	Lalonde, Michel	Riddell, Craig
Cowtan, Barbara	Lamb, Brenda	Robillard Heyniger, Line
Crow, Ruth	Lamontagne, Michel	Robinson, Ian
Cuming, Ron	Lavalley, Raymond	Rochon, Michel
D'Aoust, Louise	Lavictoire, Denis	Roy, Nicolas
D'Auray, Michelle	Lavolette, Suzanne	St-Denis, Robert
David, Debra	Leduc, Pierre	Sarazin, Bernadette
D'Avignon, Denyse	Leduc, Yves	Sargent, John
Desranleau, Claude	Lee, Nancy	Saucier, Carole
Deluca, Tina	Leishman, Tim	Scala, Alex
Dibgy, Caroline	Liebman, Dan	Scott, Ann
Doern, Bruce	Lyle, Bob	Scott, Ursula
Doncheff, Gina	MacDonald, Bruce	Sheldon, Marilyn
Ediger, Beth	MacKay, Wayne	Shore, Jacques
Eisenhauer, Tom	Manti, Orlando	Silzer, Nola
Éthier, Mireille	Marchand, Hélène	Simeon, Richard
File, Jo	Martin, Anne	Smith, David
Gale, Robert	Martin, Bernice	Sojonky, Sheila
Garceau, Angèle	Martin, Joyce	Stairs, Denis
Gervais, Jacqueline	Matheson, Ed	Stebbing, Donna
Ginzer, Maurice	McCoomb, Ann	Stewart, Harry
Glyde, Jan	McCracken, Wendy	Storozuk, Laureen
Glynn, Douglas	McCullagh, Trish	Testa, Assunta
Godsoe, J. Gerald	McFarlane, Kenneth	Thorne, Eunice
Gold, Judith	McFetridge, Don	Toner, Glen

Urquhart, Ian  
Vaillancourt, François  
Vanier, Yves  
Van Loon, Rick  
Vastel, Michel

*Summer Students*

Abelson, Donald  
Connell, Elaine  
Daneau, Pierre

Wake, Leslie  
Wall, Peggy Ann  
Whalley, John  
Williams, Cynthia  
Wilson, Mark

D'Avignon, Lyse  
Groulx, Julie  
Lawrence, Rosalyn

Winham, Gilbert  
Wolfe, Judith  
Woollcombe, Ann

McPhadden, Bryan  
Roach, Kent  
Sinclair, Ian

**NOTE:** Staff listed were employed for varying periods of time.





AAC	Annual Allowable Cut
ACIR	Advisory Commission on Intergovernmental Relations (U.S.)
ADA	Area Development Agency
ADB	Atlantic Development Board
ADTA	Adult Occupational Training Act
AIB	Anti-Inflation Board
AIP	Anti-Inflation Program
AOTA	Adult Occupational Training Act
APEC	Atlantic Provinces Economic Council
ARDA	Atlantic Regional Development Agency
ASEAN	Association of South East Asian Nations
BEDM	Board of Economic Development Ministers
BILD	Board of Industrial Leadership and Development (Ontario)
BIS	Bank for International Settlements
BTSD	Basic Training for Skill Development
CAP	Common Agricultural Policy (European Community)
CAP	Canada Assistance Plan
CARICOM	Caribbean Common Market
CASE	Counselling Assistance to Small Enterprise
CBC	Canadian Broadcasting Corporation
CCC	Canadian Commercial Corporation
CCF	Co-operative Commonwealth Federation
CCSD	Canada Council on Social Development
CDC	Canada Development Corporation
CEGEP	Collège d'enseignement général et professionnel
CEIC	Canada Employment and Immigration Commission
CEO	chief executive officer
CERI	Canadian Energy Research Institute
CIDA	Canadian International Development Agency

CIO	Congress of Industrial Organizations
CLC	Canadian Labour Congress
CLMPC	Canadian Labour Market and Productivity Centre
CMA	Canadian Manufacturers' Association
CMEC	Council of Ministers of Education of Canada
CMITP	Canada Manpower Industrial Training Program
CMTP	Canada Manpower Training Program
CNTU	Confederation of National Trade Unions
COFACE	Compagnie Française d'Assurance pour le Commerce Extérieur
COLA	cost-of-living adjustment
COMECON	Council of Mutual Economic Assistance
COPE	Committee for Original Peoples' Entitlement
COPS	Canadian Occupational Projection System
CPI	Consumer Price Index
CPP	Canada Pension Plan
CRTC	Canadian Radio-Television and Telecommunications Commission
CSLP	Canada Student Loans Program
CTST	Critical Trades Skill Training
CUPE	Canadian Union of Public Employees
CUPW	Canadian Union of Postal Workers
DAs	Development Areas
DISC	Domestic International Sales Corporation (U.S.)
DREE	Department of Regional Economic Expansion
DRI	Data Resources Incorporated
DRIE	Department of Regional Industrial Expansion
DSS	Department of Supply and Services
EARP	Environmental Assessment and Review Process
EC	European Community
ECC	Economic Council of Canada
ECSC	European Coal and Steel Community
EDC	Export Development Corporation
EEC	European Economic Community
EEO	Equal Employment Opportunity
EFTA	European Free Trade Association
EMS	European Monetary System
EPA	Environmental Protection Agency (U.S.)
EPF	Established Programs Financing
EPU	European Payments Union
ERDA	Economic and Regional Development Agreement
ESOP	Employee Stock Ownership Plan
EURATOM	European Atomic Energy Community
FAO	Food and Agriculture Organization (U.N.)
FCC	Farm Credit Corporation
FEARO	Federal Environmental Assessment and Review Office
FEDC	Federal Economic Development Co-ordinator
FIRA	Foreign Investment Review Agency

FIRB	Foreign Investment Review Board
FISP	Family Income Security Plan
FMC	First Ministers' Conference
FPP	Farm Purchase Program
FPRO	Federal Provincial Relations Office
FRED	Fund for Rural Economic Development
FSCs	Foreign Sales Corporations
GAI	guaranteed annual income
GATT	General Agreement on Tariffs and Trade
GDA	General Development Agreement
GERD	Gross Expenditures on Research and Development
GDP	gross domestic product
GERD/GNP	gross expenditure on research & development in proportion to gross national product
GIS	Guaranteed Income Supplement
GNE	gross national expenditure
GNP	gross national product
GPP	gross provincial product
GSP	Generalized System of Preferences
IAEA	International Atomic Energy Agency
IBRD	International Bank for Reconstruction and Development (World Bank)
ICAO	International Civil Aviation Organization
IDA	International Development Assistance
IEA	International Energy Agency
IFC	International Finance Corporation
IIASA	International Institute for Applied Systems Analysis
ILO	International Labour Organisation
IMCO	Inter-Governmental Maritime Consultative Organization
IMF	International Monetary Fund
IPHC	International Pacific Halibut Commission
IPSFC	International Pacific Salmon Fisheries Commission
IRAP	Industrial Research Assistance Program
IRDP	Industrial and Regional Development Program
ITC	Department of Industry, Trade and Commerce
ITO	International Trade Organization
ITU	International Telecommunications Union
JCPC	Judicial Committee of the Privy Council
JPC	Japan Productivity Centre
LDCs	less-developed countries
MFA	Multi-fibre Agreement
MFN	most-favoured nation
M1	a limited definition of the money supply
MITI	Ministry of International Trade and Industry (Japan)
MNE	multi-national enterprise
MRC	Medical Research Council
MSED	Ministry of State for Economic Development
MSERD	Ministry of State for Economic and Regional Development

MSSD	Ministry of State for Social Development
MW	megawatts
NAIRU	non-accelerating inflation rate of unemployment
NASA	National Aeronautics and Space Agency (U.S.)
NATO	North Atlantic Treaty Organization
NCCU	National Council of Canadian Universities
NEB	National Energy Board
NEP	National Energy Program
NGGLT	Natural Gas and Gas Liquids Tax
NIC	newly industrialized country
NIEO	New International Economic Order
NOP	National Oil Policy
NORAD	North American Aerospace Defense
NRC	National Research Council
NSERC	National Science and Engineering Research Council
NTA	National Training Act
NTBs	non-tariff barriers
NTP	National Training Program
OAS	Old Age Security
OCAP	Ontario Career Action Program
ODA	Official Development Assistance
OECD	Organisation for Economic Co-operation and Development
OEEC	Organization for European Economic Co-operation
OISE	Ontario Institute for Studies in Education
OPEC	Organization of Petroleum Exporting Countries
OPIC	Overseas Private Investment Corporation
OTIP	Ontario Training Incentive Program
PCC	Petroleum Compensation Charge
PCO	Privy Council Office
PGRT	Petroleum and Gas Revenue Tax
PIPs	Petroleum Incentive Payments
PMO	Prime Minister's Office
PR	proportional representation
PSE	post-secondary education
PSSRA	Public Service Staff Relations Act
QPP	Quebec Pension Plan
QWL	quality of working life
QWLC	Quality of Working Life Centre
RDIA	Regional Development Incentives Act
R&D	research and development
RELSP	Registered Educational Leave Savings Plan
RETSP	Registered Education and Training Savings Plan
RHOSP	Registered Home Ownership Savings Plan
RPP	Registered Pension Plan
RRSP	Registered Retirement Savings Plan
SBDC	Small Business Development Corporation
SDAs	Special Development Areas
SDRs	Special Drawing Rights (on International Monetary Fund)



SFFAP	Special Farm Financial Assistance Program
SRTC	Scientific Research Tax Credit
SSHRC	Social Sciences and Humanities Research Council
STAA	Surface Transportation Assistance Act
TAAP	Transitional Adjustment Assistance Plan
TDIP	Trade Disruption Insurance Program
TIP	tax-based incomes policy
UI	Unemployment Insurance
UISP	Universal Income Security Program
UNAEC	United Nations Atomic Energy Commission
UNCLOS	United Nations Convention on the Law of the Sea
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Program
UNEP	United Nations Environment Program
UNIDO	United Nations Industrial Development Organisation
UPU	Universal Postal Union
UTDC	Urban Transportation Development Corporation (Ontario)
WCB	Workers' Compensation Board
WFP	World Food Program
World Bank	The International Bank for Reconstruction and Development
WPM	world product mandate
WIPO	World Intellectual Property Organisation





















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